SUMMARY SHEET
SOUTH CAROLINA BOARD OF HEALTH AND ENVIRONMENTAL CONTROL

July 8, 2021

( ) ACTION/DECISION
(X) INFORMATION

I. **TITLE:** Healthcare Quality Administrative and Consent Orders.

II. **SUBJECT:** Healthcare Quality Administrative Orders and Consent Orders for the period of May 1, 2021, through May 31, 2021.

III. **FACTS:** For the period of May 1, 2021, through May 31, 2021, Healthcare Quality reports two (3) Consent Orders totaling $18,400 in assessed monetary penalties and thirty-two (32) Notices of Violation and Civil Penalty totaling $13,600 in assessed monetary penalties.

Name of Bureau	Facility, Service, Provider, or Equipment Type	Notices of Violation and Civil Penalty	Administrative Orders	Consent Orders	Assessed Penalties
Community Care	Community Residential Care Facility	22	0	1	$21,800
	Nursing Home	10	0	0	$3,200
Healthcare Systems and Services	In-Home Care Provider	0	0	2	$7,000
TOTAL		**32**	**0**	3	**$32,000**

Submitted By:

Gwendolyn C. Thompson

Gwen C. Thompson
Deputy Director
Healthcare Quality

HEALTHCARE QUALITY ENFORCEMENT REPORT
SOUTH CAROLINA BOARD OF HEALTH AND ENVIRONMENTAL CONTROL

July 8, 2021

Bureau of Community Care

1. Facilities in Violation of Public Health Order No. COVID-19-5

Violations: The Department found that the twenty-two (22) community residential care facilities (CRCFs) and ten (10) nursing homes listed below failed to submit a weekly visitation report to the Department by the mandatory deadline. Failure to submit the report by the deadline is in violation of the Department's October 7, 2020, Public Health Order that requires all nursing homes and CRCFs licensed by the Department to submit a weekly report on their visitation status.

Enforcement Action: In May 2021, the Department issued Notices of Violation and Civil Penalty against twenty-two (22) CRCFs and ten (10) nursing homes. All of the facilities listed below were required to pay the full amount of their accumulated penalties within twenty (20) days of the dated notices.

Name of Facility	Facility Type	Civil Penalty	Payment Received
Bloom at Bluffton	CRCF	$350.00	YES
Cabading Homes #1	CRCF	$350.00	YES
Cabading Homes #2	CRCF	$350.00	YES
Cabading Homes #3	CRCF	$350.00	YES
Carriage House Senior Living of Florence	CRCF	$350.00	YES
Carriage House Senior Living of Hartsville	CRCF	$350.00	YES
Catherine's Manor II	CRCF	$350.00	YES
Colonial Gardens Alzheimer's Special Care Center	CRCF	$250.00	YES
Dixon's Community Care Home	CRCF	$1,000.00	YES
Emerald RCF I	CRCF	$350.00	YES
Emerald RCF II	CRCF	$350.00	YES
Franke Home	CRCF	$250.00	YES
Harbison Hall	CRCF	$450.00	YES
My Father's House	CRCF	$250.00	YES
New Beginnings of Pineville	CRCF	$250.00	YES
New Light Community Care	CRCF	$350.00	YES
Oliver's Care Home	CRCF	$350.00	YES
Quillen Manor	CRCF	$250.00	YES
Reid's Residential Care Facility	CRCF	$350.00	YES
Summit Hills Assisted Living Community	CRCF	$250.00	YES
Summit Place of Daniel Island	CRCF	$350.00	YES
Summit Place of North Myrtle Beach	CRCF	$250.00	YES

Name of Facility	Facility Type	Civil Penalty	Payment Received
Carlyle Senior Care of Florence	Nursing Home	$250.00	YES
Condor Health - Anderson	Nursing Home	$350.00	YES
Dundee Manor	Nursing Home	$450.00	YES
Franke Health Care Center	Nursing Home	$250.00	YES
Iva Rehabilitation and Healthcare Center	Nursing Home	$350.00	YES
Lake Marion Nursing Facility	Nursing Home	$350.00	YES
Magnolia Manor-Greenville	Nursing Home	$450.00	YES
Seneca Health and Rehabilitation Center	Nursing Home	$250.00	YES
Summit Hills Skilled Nursing Facility	Nursing Home	$250.00	YES
White Oak Manor Columbia	Nursing Home	$250.00	YES

Facility Type	Total Number of Licensed Facilities	Total Number of Licensed Beds
Community Residential Care Facility (CRCF)	485	21,839

2. Easy Living – Lamar, SC

Inspections and Investigations: The Department conducted several inspections, follow-up inspections, and investigations, including May 2019, June 2019, October 2020, and December 2020, and found the facility repeatedly violated numerous regulatory requirements.

Violations: The Department found the facility violated Regulation 61-84, *Standards for Licensing Community Residential Care Facilities*, by failing to conduct criminal background checks on staff prior to hire and failing to maintain documentation of a staff health assessment prior to resident contact. The Department further found that the facility failed to ensure preventive measures and practices were followed according the guidelines of the Centers for Disease Control and Prevention (CDC) and infectious waste management requirements. The facility had multiple violations regarding training including basic first aid, the care of persons with contagious or communicable diseases, medication management, restraint techniques, OSHA standards regarding blood borne pathogens, confidentiality of resident information, resident rights, fire response, emergency procedures, and disaster preparedness. The facility failed to maintain records of receipt, administration, and disposition of all controlled substances to ensure an accurate reconciliation. Moreover, the facility failed to document resident observation notes, individual care plans, physical examinations, advanced directives, and two-step tuberculin skin tests.

Enforcement Action: The parties agreed to resolve the matter with a consent order. The parties executed a consent order imposing a monetary penalty of $11,400 against the facility. The facility is required to pay $7,980 of the assessed monetary penalty in three (3) payments of $2,660. The facility agreed to schedule and attend a compliance assistance meeting with Department representatives within 45 days of executing the Consent Order.

Remedial Action: The facility made the first required payment. Prior to making the remaining payments and scheduling the compliance assistance meeting, the facility notified the Department that the facility is

closed temporarily and the residents have been transferred to another community residential care facility (CRCF). The facility will need to contact the Department if they desire to reopen.

Prior Actions: None in the past five years.

Bureau of Healthcare Systems and Services

Facility Type	Total Number of Licensed Providers
In-Home Care Providers	825

3. Affinity Caregivers of SC, LLC[1] – Lexington, SC

Inspections and Investigations: The Department conducted complaint investigations in November 2020 and April 2021, at Affinity Caregivers, to determine if they were establishing, operating, maintaining, and/or representing themselves as an in-home care provider without first obtaining a license from the Department.

Violations: After the November 2020 and April 2021 investigations, the Department found that Affinity Caregivers was in violation of the Licensure of In-Home Care Providers Act and Regulation 61-122, *Standards for Licensing In-Home Care Providers*, because Affinity Caregivers was operating as an unlicensed in-home care provider after both the November 2020 and April 2021 investigations.

Enforcement Action: The parties agreed to resolve the matter by consent order. The parties executed the first Consent Order in March 2021, whereby Affinity Caregivers agreed to pay a $2,000 monetary penalty and agreed to not establish, operate, maintain, or represent themselves as in-home care provider without first obtaining a license from the Department.[2] Affinity Caregivers paid the $2,000 penalty and submitted an in-home care provider license application to the Department. The application submitted by Affinity Caregivers is incomplete, and the Department is still awaiting required application documentation from Affinity Caregivers.

After the April 2021 investigation, the Department found that Affinity Caregivers continued to operate, maintain, and/or represent themselves as in-home care provider without first obtaining a license from the Department. The parties executed the second Consent Order in May 2021, whereby Affinity Caregivers agreed to pay a $5,000 monetary penalty and agreed to not establish, operate, maintain, or represent themselves as in-home care provider without first obtaining a license from the Department.

Remedial Action: Affinity Caregivers has paid the $2,000 and $5,000 monetary penalties imposed by the Department under the two Consent Orders. In June 2021, Department conducted another investigation and found that Affinity Caregivers continued to operate, maintain, and/or represent themselves as in-home care provider without first obtaining a license. An enforcement conference was held between the parties in June 2021, to try again to resolve this issue by consent order.

Prior Actions: None prior to March 2021.

[1] Upon submission of this report, Affinity Caregivers of SC, LLC, was not licensed by the Department.
[2] The March and May Consent Orders are both being reported in July.

SUMMARY SHEET
BOARD OF HEALTH AND ENVIRONMENTAL CONTROL
July 8, 2021

_____ ACTION/DECISION

__X__ INFORMATION

1. **TITLE:** Administrative and Consent Orders issued by the Office of Environmental Affairs.

2. **SUBJECT:** Administrative and Consent Orders issued by the Office of Environmental Affairs during the period May 1, 2021, through May 31, 2021.

3. **FACTS:** For the reporting period of May 1, 2021, through May 31, 2021, the Office of Environmental Affairs issued twenty-five (25) Consent Orders with total assessed civil penalties in the amount of sixty-seven thousand, five hundred ten dollars ($67,510.00). Also, five (5) Administrative Orders with total assessed civil penalties in the amount of thirty-two thousand, six hundred twenty-five dollars ($32,625.00) were reported during this period.

Bureau and Program Area	Administrative Orders	Assessed Penalties	Consent Orders	Assessed Penalties
Land and Waste Management				
UST Program	1	$23,050.00	0	0
Aboveground Tanks	0	0	0	0
Solid Waste	1	$4,800.00	1	0
Hazardous Waste	0	0	1	$6,600.00
Infectious Waste	0	0	0	0
Mining	0	0	0	0
SUBTOTAL	**2**	**$27,850.00**	**2**	**$6,600.00**
Water				
Recreational Water	0	0	1	$300.00
Drinking Water	0	0	11	0
Water Pollution	2	$4,775.00	7	$28,860.00
Dam Safety	0	0	0	0
SUBTOTAL	**2**	**$4,775.00**	**19**	**$29,160.00**
Air Quality				
SUBTOTAL	**0**	**0**	**2**	**$30,450.00**
Environmental Health Services				
Food Safety	0	0	1	$800.00
Onsite Wastewater	1	0	1	$500.00
SUBTOTAL	**1**	**0**	**2**	**$1,300.00**
OCRM				
SUBTOTAL	**0**	**0**	**0**	**0**
TOTAL	**5**	**$32,625.00**	**25**	**$67,510.00**

Submitted by:

Myra C. Reece

Myra C. Reece
Director of Environmental Affairs

ENVIRONMENTAL AFFAIRS ENFORCEMENT REPORT
BOARD OF HEALTH AND ENVIRONMENTAL CONTROL
July 8, 2021

BUREAU OF LAND AND WASTE MANAGEMENT

Underground Storage Tank Enforcement

1) Order Type and Number: Administrative Order 19-0494-UST
Order Date: March 25, 2021
Individual/Entity: **Ramdevji LLC**
Facility: Ramdevji
Location: 1717 West Whitner Street
Anderson, SC 29624
Mailing Address: 133 Patagonia Road
County: Anderson
Previous Orders: None
Permit/ID Number: 00473
Violations Cited: The State Underground Petroleum Environmental Response Bank Act of 1988 (SUPERB Act), S.C. code Ann. §§ 44-2-10 et seq. (2018) and South Carolina Underground Storage Tank Control Regulation, 7 S.C. Code Ann., Regs 61-92, 280.21, 280.31, 280.31(a), 280.70(c), 280.93(a), and 280.110(c) (2012 & Supp 2019).

Summary: Ramdevji LLC (Individual/Entity) is the owner of underground storage tanks in Anderson County, South Carolina. On October 2, 2019, May 19, 2020, October 5, 2020, and November 4, 2020, the Department conducted inspections and issued a Notices of Alleged Violations. The Individual/Entity violated the SUPERB Act and the South Carolina Underground Storage Tank Regulations, as follows: failed to operate and maintain the corrosion protection system continuously, failed to demonstrate financial responsibility for an UST system and submit evidence of financial assurance to the Department upon request, and failed to permanently close an UST system that does not meet the new UST system performance standards in Subpart G.

Action: The Individual/Entity is required to submit: either proof that metal integrity tests, tank tightness tests, and corrosion protection system test have been performed, or a completed Tank and Sludge Disposal Form for permanent closure of the underground Storage Tanks by June 1, 2021; permanently close the underground storage tanks within forty-five (45) days after the approved Tank Sludge Disposal Form; within sixty (60) days of permanent closure, a Closure and Assessment Report; a completed Certificate of Financial Responsibility form and evidence of financial assurance. The Department has assessed a total civil penalty in the amount of twenty-three thousand, fifty dollars ($23,050.00). The Individual/Entity shall pay a civil penalty in the amount of twenty-three thousand, fifty dollars **($23,050.00)** by May 13, 2021.

Update: No Request for Review was filed. The effective date of the Order is April 13, 2021.

Solid Waste Enforcement

2) Order Type and Number: Administrative Order 19-28-SW
Order Date: April 12, 2021
Individual/Entity: **Brenda J. Phillips**
Facility: 210 Possum College Road, Property
Location: 210 Possum College Road
Lexington County, SC
Mailing Address: 1130 Sox Street
West Columbia, SC 29169
County: Lexington
Previous Orders: None
Permit/ID Number: N/A
Violations Cited: South Carolina Solid Waste Policy and Management Act of 1991, S.C. Code Ann. §§ 44-96-290(A) (2018 & Supp. 2018) (Act) and the Solid Waste Management: Solid Waste Landfills and Structural Fill Regulation, R.61-107.19, Part IV.A.3. (2002 and Supp. 2016) (Regulation)

Summary: Brenda J. Phillips (Individual/Entity), owns property located in Lexington County, South Carolina. The Department conducted an inspection on April 25, 2019, in response to a complaint. The Individual/Entity has violated the South Carolina Solid Waste Policy and Management Act and Solid Waste Management: Solid Waste Landfills and Structural Fill Regulation, as follows: failed to obtain a Department issued permit prior to engaging in Class Two landfill activities.

Action: The Individual/Entity is required to: remove all solid waste debris from the Site; dispose of it at a permitted solid waste management facility; and submit disposal receipts to the Department by June 11, 2021. The Department assessed a total civil penalty in the amount of four thousand, eight hundred dollars ($4,800.00). The Individual/Entity shall pay a civil penalty in the amount of four thousand, eight hundred dollars **($4,800.00)** by June 11, 2021.

Update: A Request for Review was received on April 26, 2021. The Request for Review was denied. The Individual/Entity filed an appeal with the ALC.

3) Order Type and Number: Consent Order 21-05-SW
Order Date: May 17, 2021
Individual/Entity: **Anselmo Tinajero Rodriguez and Reina Perea Perez**
Facility: TMS # 0248000214200
Location: 103 Sunnyview Drive
Greenville, SC 29611
Mailing Address: Same
County: Greenville
Previous Orders: None
Permit/ID Number: N/A
Violations Cited: South Carolina Solid Waste Policy and Management Act of 1991, S.C. Code Ann. §§ 44-96-10 et seq. (2002 & Supp.

2018); Solid Waste Management: Solid Waste Landfills and Structural Fill Regulation, R.61-107.19, Part II.B.1 (Rev. 2008 and Supp. 2016).

Summary: Anselmo Tinajero Rodriguez and Reina Perea Perez (Individual/Entity), own property located in Greenville County, South Carolina. The Department conducted an inspection on November 18, 2020, in response to a complaint. The Individual/Entity has violated the South Carolina Solid Waste Policy and Management Act and the Solid Waste Management: Solid Waste Landfills and Structural Fill Regulation as follows: engaged in structural fill activity without a Department issued permit.

Action: The Individual/Entity is required to: complete closure activities of the Site as defined: a) apply a minimum two (2)-foot thick final earth cover with at least one percent (1%), but not greater than four percent (4%) surface slope, graded to promote positive drainage. The side slope cover shall not exceed three (3) horizontal feet to one (1) vertical foot; b) any remaining concrete that was not being pushed into the low-lying area must be removed and properly disposed of; c) use appropriate best management practices to control stormwater runoff; d) seed the finished surface of the filled area with native grasses or other suitable ground cover to establish and maintain into the second growing season a 75% or greater permanent vegetive cover with no substantial bare spots; and e) using a form approved by the Department, record with the appropriate Register of Deeds, a notation in the record of ownership of the property – or some other instrument that is normally examined during a title search that will, in perpetuity, notify any potential purchaser of the property that the land or a portion thereof has been structurally filled; and list the specific items used for filling, e.g. soil, concrete, brick; and submit a copy of the deed notation to the Department by September 14, 2021. The Department has assessed a total civil penalty in the amount of one thousand, one hundred dollars ($1,100.00). The Individual/Entity shall pay a **suspended penalty** in the amount of one thousand, one hundred dollars **($1,100.00)** should any requirement of the Order not be met.

Update: None.

Hazardous Waste Enforcement

4) Order Type and Number: Consent Order 21-01-HW
Order Date: May 18, 2021
Individual/Entity: **Clarios, LLC**
Facility: Clarios, LLC
Location: 1800 Paper Mill Road
Gaffney, SC 29340
Mailing Address: Same
County: Florence
Previous Orders: 18-19-HW ($38,000.00)
Permit/ID Number: SCR 000 771 451
Violations Cited: The South Carolina Hazardous Waste Management Act, S.C. Code Ann. §§ 44-56-10 et seq. (2018), and the South Carolina Hazardous Waste Management Regulation, 6 and 7 S.C. Code Ann. Regs. 61-79 (2012 and Supp. 2018).

Summary: Clarios, LLC (Individual/Entity), formerly known as Johnson Control Battery Group, Inc., is a battery recycler operating under the NAICS Code 331492 for

secondary smelting, refining, and alloying of nonferrous metal at its facility located in Florence County, South Carolina. The Department conducted an inspection on July 14, 2020. The Individual/Entity violated the South Carolina Hazardous Waste Management Act and the Hazardous Waste Management Regulations as follows: failed to file with the Department a revised or new Notification Form for new hazardous waste within thirty (30) days after such waste was first produced; failed to submit the information required by paragraph (a) on a form designated by the Department and according to the instructions included with such form; and failed to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless it can be demonstrated to the Department that aisle space is not needed for any of these purposes.

Action: The Individual/Entity corrected all violations prior to the issuance of the Order. The Department has assessed a total civil penalty in the amount of six thousand, six hundred dollars ($6,600.00). The Individual/Entity shall pay a civil penalty in the amount of six thousand, six hundred dollars **($6,600.00)** by June 17, 2021.

Update: The Individual/Entity is investigating whether the penalty payment has been mailed to the Department.

BUREAU OF WATER

Recreational Waters Enforcement

5)

Order Type and Number:	Consent Order 21-013-RW
Order Date:	May 4, 2021
Individual/Entity:	**Wildewood Community Partners Group, Inc.**
Facility:	The Wildewood Club
Location:	99 Mallet Hill Road Columbia, SC 29223
Mailing Address:	Same
County:	Richland
Previous Orders:	None
Permit/ID Number:	None
Violations Cited:	S.C. Code Ann. Regs. 61-51.B.2

Summary: Wildewood Community Partners Group, Inc. (Individual/Entity) owns and is responsible for obtaining the proper permitting and the proper construction of a pool located in Richland County, South Carolina. The Department issued a Notice of Alleged Violation/Notice of Enforcement Conference on April 6, 2021, as a result of review of Department records. The Individual/Entity has violated the Public Swimming Pools Regulation as follows: failed to obtain a permit to construct from the Department prior to the construction of a pool.

Action: The Individual/Entity is required to: submit to the Department a complete application to obtain a permit to construct by June 4, 2021, and complete the construction and obtain Department approval to operate the pool within ninety (90) days of the issuance

of the permit to construct. The Department has assessed a total civil penalty in the amount of three hundred dollars ($300.00). The Individual/Entity shall pay a civil penalty in the amount of three hundred dollars **($300.00)** by June 4, 2021.

Update: The civil penalty has been paid.

Drinking Water Enforcement

6) Order Type and Number: Consent Order 21-018-DW
Order Date: May 4, 2021
Individual/Entity: **Dorchester County Water & Sewer**
Facility: Dorchester County Water & Sewer I-95
Location: 235 Deming Way
Summerville, SC 29483
Mailing Address: Same
County: Dorchester
Previous Orders: None
Permit/ID Number: 1870914
Violations Cited: S.C. Code Ann. Regs. 61-58.5.P(2)(b)

Summary: Dorchester County Water and Sewer (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS) located in Dorchester County, South Carolina. On March 31, 2021, a violation was issued as a result of review of monitoring records. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: the PWS exceeded the maximum contaminant level (MCL) for total trihalomethanes.

Action: The Individual/Entity is required to: submit to the Department a corrective action plan with a schedule to address the MCL violation by June 4, 2021. The Department has assessed a total civil penalty in the amount of four thousand dollars ($4,000.00). The Individual/Entity shall pay a **stipulated penalty** in the amount of four thousand dollars **($4,000.00)** should any requirement of the Order not be met.

Update: The Individual/Entity submitted a corrective action plan which was approved by the Department.

7) Order Type and Number: Consent Order 21-019-DW
Order Date: May 14, 2021
Individual/Entity: **Naomi Halter, Individually and d.b.a. Greenwood Mobile Home Park**
Facility: Greenwood Mobile Home Park
Location: 3167 Greenwood Drive
South Congaree, SC 29172
Mailing Address: 441 Dunbar Road
West Columbia, SC 29172
County: Lexington
Previous Orders: None
Permit/ID Number: 3260067
Violations Cited: S.C. Code Ann. Regs. 61-58.5B(2)(h)

Summary: Naomi Halter, Individually and d.b.a. Greenwood Mobile Home Park (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS) located in Lexington County, South Carolina. On March 1, 2021, a violation was issued as a result of review of monitoring records. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: the PWS exceeded the maximum contaminant level (MCL) for nitrate.

Action: The Individual/Entity is required to: submit a corrective action plan with a schedule to address the MCL violation by August 14, 2021. The Department has assessed a total civil penalty in the amount of four thousand dollars ($4,000.00). The Individual/Entity shall pay a **stipulated penalty** in the amount of four thousand dollars (**$4,000.00**) should any requirement of the Order not be met.

Update: None.

8) Order Type and Number: Consent Order 21-020-DW
Order Date: May 18, 2021
Individual/Entity: **Eagle Harbor, Inc.**
Facility: Eagle Harbor Ranch
Location: 1044 Eagle Harbor Lane
Summerville, SC 29483
Mailing Address: Same
County: Berkeley
Previous Orders: None
Permit/ID Number: 0870984
Violations Cited: S.C. Code Ann. Regs. 61-58.7 & 61-58.8.B

Summary: Eagle Harbor, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS) located in Berkeley County, South Carolina. The Department conducted an inspection on March 22, 2021, and the PWS was rated unsatisfactory for failure to properly operate and maintain and failure to develop an emergency preparedness plan. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: the sanitary seal, screened air vent, pressure gauge, and storage tank were rusted; the door to the well house was not locked; there were threads on the sample tap with two hoses attached; the system map and Emergency Preparedness Plan were not available for Department review; there was debris in the well house; there was overgrown vegetation in front of the well house door; and there were two residential homes at the facility that housed foster care transient populations that were served by a residential well.

Action: The Individual/Entity is required to: correct all of the deficiencies by June 1, 2021; and submit a corrective action plan and schedule that states what will be implemented to provide a public water supply source to the two residential homes by August 31, 2021. The Department has assessed a total civil penalty in the amount of eight thousand dollars ($8,000.00). The Individual/Entity shall pay a **stipulated penalty** in the amount of eight thousand dollars (**$8,000.00**) should any requirement of the Order not be met.

Update: The Individual/Entity has corrected the deficiencies.

9) Order Type and Number: Consent Order 21-021-DW
Order Date: May 18, 2021
Individual/Entity: **Kim Chalmers, Individually and d.b.a. Cuyler Mobile Home Park**
Facility: Cuyler Mobile Home Park
Location: 2341 Calf Pen Bay Road
Pineland, SC 29934
Mailing Address: Same
County: Hampton
Previous Orders: None
Permit/ID Number: 2760014
Violations Cited: S.C. Code Ann. Regs. 61-58.7 & 61-58.8.B

Summary: Kim Chalmers, Individually and d.b.a. Cuyler Mobile Home Park (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS) located in Hampton County, South Carolina. The Department conducted an inspection of the PWS on November 18, 2020, and it was rated unsatisfactory for failure to properly operate and maintain, and failure to develop an emergency preparedness plan. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: there were miscellaneous items and debris stored inside and outside of the well house; there was overgrown vegetation surrounding the well house; the roof of the well house was deteriorated; the well house did not have a door; the well casing was not at least 12 inches above the well pad; the bottom of the pump was rusted; there was a leak on the wellhead piping; some of the wellhead piping was rusted; a complete procedures manual with written programs and logs was not provided for Department review; and an emergency preparedness plan was not provided for Department review.

Action: The Individual/Entity is required to: correct all of the deficiencies by July 13, 2021. The Department has assessed a total civil penalty in the amount of eight thousand dollars ($8,000.00). The Individual/Entity shall pay a **stipulated penalty** in the amount of eight thousand dollars (**$8,000.00**) should any requirement of the Order not be met.

Update: None

10) Order Type and Number: Consent Order 21-022-DW
Order Date: May 24, 2021
Individual/Entity: **Heart Ridge, LLC**
Facility: Heart Ridge Retreat and Cultural Center
Location: 130 Heart Ridge Drive
Sunset, SC 29685
Mailing Address: Same
County: Pickens
Previous Orders: None
Permit/ID Number: 3970909
Violations Cited: S.C. Code Ann. Regs. 61-58.7 & 61-58.8.B

Summary: Heart Ridge, LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS) located in Pickens County, South Carolina. The Department conducted an inspection on March 17, 2021, and the PWS was rated unsatisfactory for failure to properly operate and maintain, and failure

to develop an emergency preparedness plan. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: the wellhead piping, well houses, sample taps, and well pads at Well 1 and Well 2 were in disrepair; the electrical wiring for Well 1 and Well 2 was not in conduit and was not fitted and sealed on the sanitary seals; the electrical boxes at Well 1 and Well 2 were open and the electrical wires were exposed; there were trees and shrubs growing inside the fenced area surrounding the hydro-pneumatic storage tank and the exterior of the tank was in disrepair; the capacity of the storage tanks and number of taps were not the originally permitted amount; there were no tank inspection reports available for Department review; a complete procedures manual with written programs and logs was not provided for Department review; and an up-to-date emergency preparedness plan was not provided for Department review.

Action: The Individual/Entity is required to: correct the deficiencies and have the hydro-pneumatic storage tank inspected by a professional tank servicing company by August 16, 2021; and complete the recommendations in the storage tank inspection report within ninety (90) days of the date of the report. The Department has assessed a total civil penalty in the amount of eight thousand dollars ($8,000.00). The Individual/Entity shall pay a **stipulated penalty** in the amount of eight thousand dollars (**$8,000.00**) should any requirement of the Order not be met.

Update: None

11)

Order Type and Number:	Consent Order 21-023-DW
Order Date:	May 26, 2021
Individual/Entity:	**Town of Summerton**
Facility:	Gin Pond Shores
Location:	10 Main Street Summerton, SC 29148
Mailing Address:	Same
County:	Clarendon
Previous Orders:	None
Permit/ID Number:	1450005
Violations Cited:	S.C. Code Ann. Regs. 61-58.7 & 61-58.8.B

Summary: The Town of Summerton (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS) located in Clarendon County, South Carolina. The Department conducted an inspection on April 8, 2021, and the PWS was rated unsatisfactory for failure to properly operate and maintain and failure to develop an emergency preparedness plan. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: the sanitary seals were rusted; electrical wiring was not in conduit; the well pads, well house covers, casing vents, wellhead piping, sample taps, flow meters, well pads, and blow-offs were in disrepair; the storage tank was water-logged and in disrepair; the pressure gauge at the storage tank was reporting a low pressure; the gates were not locked to prevent unauthorized access; there were no spare parts available in the event of a needed repair; a complete procedures manual with written programs and logs was not provided for Department review; and an emergency preparedness plan was not provided for Department review.

Action: The Individual/Entity is required to: correct the deficiencies by September 15, 2021; submit to the Department for review and approval a corrective action plan to address low pressure readings at the storage tank by September 15, 2021; have the storage

tank inspected by September 15, 2021; and complete the recommendations in the storage tank inspection report within one hundred eighty (180) days of the date of the storage tank inspection report. The Department has assessed a total civil penalty in the amount of eight thousand dollars ($8,000.00). The Individual/Entity shall pay a **stipulated penalty** in the amount of eight thousand dollars (**$8,000.00**) should any requirement of the Order not be met.

Update: None

12) Order Type and Number: Consent Order 21-024-DW
Order Date: May 26, 2021
Individual/Entity: **Town of Summerton**
Facility: Goat Island
Location: 10 Main Street
Summerton, SC 29148
Mailing Address: Same
County: Clarendon
Previous Orders: None
Permit/ID Number: 1450012
Violations Cited: S.C. Code Ann. Regs. 61-58.7 & 61-58.8.B

Summary: The Town of Summerton (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS) located in Clarendon County, South Carolina. The Department conducted an inspection on April 8, 2021, and the PWS was rated unsatisfactory for failure to properly operate and maintain and failure to develop an emergency preparedness plan. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: the sanitary seals, well pads, wellhead piping, and storage buildings were in disrepair; the storage tank was in disrepair; the wells did not have flow meters; Department staff had received complaints concerning water pressure and water quality; there were no spare parts available in the event of a needed repair; a complete procedures manual with written programs and logs was not provided for Department review; and an emergency preparedness plan was not provided for Department review.

Action: The Individual/Entity is required to: correct the deficiencies by September 15, 2021; submit to the Department for review and approval a corrective action plan to address the causes of the water quality, water pressure, and storage capacity deficiencies, and the condition of the storage tank by September 15, 2021. The Department has assessed a total civil penalty in the amount of eight thousand dollars ($8,000.00). The Individual/Entity shall pay a **stipulated penalty** in the amount of eight thousand dollars (**$8,000.00**) should any requirement of the Order not be met.

Update: None

13) Order Type and Number: Consent Order 21-025-DW
Order Date: May 26, 2021
Individual/Entity: **Town of Summerton**
Facility: Haynesworth Mill
Location: 10 Main Street
Summerton, SC 29148

Mailing Address: Same
County: Clarendon
Previous Orders: None
Permit/ID Number: 1450008
Violations Cited: S.C. Code Ann. Regs. 61-58.7 & 61-58.8.B

Summary: The Town of Summerton (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS) located in Clarendon County, South Carolina. The Department conducted an inspection on April 8, 2021, and the PWS was rated unsatisfactory for failure to properly operate and maintain, and failure to develop an emergency preparedness plan. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: the sanitary seal, well house, well casing, well pad, wellhead piping, sample tap, and check valve were in disrepair; the blow-off did not have a screen; there was no flow meter; one of the storage tanks was offline; two of the storage tanks were in disrepair; there were no spare parts available in the event of a needed repair; a complete procedures manual with written programs and logs was not provided for Department review; and an emergency preparedness plan was not provided for Department review.

Action: The Individual/Entity is required to: correct the deficiencies by September 15, 2021; and submit to the Department for review and approval a corrective action plan to address the storage maintenance deficiencies by September 15, 2021. The Department has assessed a total civil penalty in the amount of eight thousand dollars ($8,000.00). The Individual/Entity shall pay a **stipulated penalty** in the amount of eight thousand dollars (**$8,000.00**) should any requirement of the Order not be met.

Update: None

14) Order Type and Number: Consent Order 21-026-DW
Order Date: May 26, 2021
Individual/Entity: **Town of Summerton**
Facility: North Shore
Location: 10 Main Street
Summerton, SC 29148
Mailing Address: Same
County: Clarendon
Previous Orders: None
Permit/ID Number: 1470863
Violations Cited: S.C. Code Ann. Regs. 61-58.7 & 61-58.8.B

Summary: The Town of Summerton (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS) located in Clarendon County, South Carolina. The Department conducted an inspection on April 8, 2021, and the PWS was rated unsatisfactory for failure to properly operate and maintain, and failure to develop an emergency preparedness plan. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: booster pump number 2 and the fans and lights located in the pump room were not operational; the vent fan and heater in the chemical storage room at Plant 1 were not operational; National Sanitation Foundation certification for the chlorine treatment at Plant 1 was not provided for Department review; Department staff had received complaints concerning water quality; there was no documentation to determine adequate pressure; the ground storage tank had not been

serviced and required maintenance; there were no spare parts available in the event of a needed repair; a complete procedures manual with written programs and logs was not provided for Department review; and an emergency preparedness plan was not provided for Department review.

Action: The Individual/Entity is required to: correct the deficiencies by September 15, 2021; have both storage tanks inspected by September 15, 2021 and complete the recommendations in the storage tank inspection report within one hundred eighty (180) days of the date of the report; submit to the Department for review and approval an investigative report to if the current storage capacity is sufficient by September 15, 2021; flow test all of the fire hydrants and submit a copy of the test results report to the Department for review and approval by December 31, 2021; and repair or replace all hydrants documented in the report as inadequate or inoperable within one hundred twenty (120) days of the date of the Department's written approval. The Department has assessed a total civil penalty in the amount of eight thousand dollars ($8,000.00). The Individual/Entity shall pay a **stipulated penalty** in the amount of eight thousand dollars (**$8,000.00**) should any requirement of the Order not be met.

Update: None

15)

Order Type and Number:	Consent Order 21-027-DW
Order Date:	May 26, 2021
Individual/Entity:	**Town of Summerton**
Facility:	Sigfield
Location:	10 Main Street Summerton, SC 29148
Mailing Address:	Same
County:	Clarendon
Previous Orders:	None
Permit/ID Number:	1470863
Violations Cited:	S.C. Code Ann. Regs. 61-58.7 & 61-58.8.B

Summary: The Town of Summerton (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS) located in Clarendon County, South Carolina. The Department conducted an inspection on April 8, 2021, and the PWS was rated unsatisfactory for failure to properly operate and maintain, and failure to develop an emergency preparedness plan. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: the insulation inside the well covers was in disrepair and the well covers were not locked; the electrical wiring was not in conduit; the sample taps had threads; the flow meter at Well 1 was not operating properly; there was no flow meter at Well 2; the storage tank pressure gauge was reporting a low pressure reading; the storage tank was waterlogged and in disrepair; the system was connected to another system and it had not been determined if there was sufficient capacity for both water systems; chemicals used to treat for ants were found near both wells; there were no spare parts available in the event of a needed repair; a water audit was not available for Department review; a complete procedures manual with written programs and logs was not provided for Department review; and an emergency preparedness plan was not provided for Department review.

Action: The Individual/Entity is required to: correct the deficiencies by September 15, 2021; have the storage tank inspected by September 15, 2021 and complete the

recommendations in the storage tank inspection report within one hundred eighty (180) days of the date of the report; submit to the Department for review and approval a corrective action plan with a schedule to address the capacity deficiency by September 15, 2021. The Department has assessed a total civil penalty in the amount of eight thousand dollars ($8,000.00). The Individual/Entity shall pay a **stipulated penalty** in the amount of eight thousand dollars (**$8,000.00**) should any requirement of the Order not be met.

Update: None

16) Order Type and Number: Consent Order 21-028-DW
Order Date: May 26, 2021
Individual/Entity: **Town of Summerton**
Facility: Town of Summerton
Location: 10 Main Street
Summerton, SC 29148
Mailing Address: Same
County: Clarendon
Previous Orders: None
Permit/ID Number: 1410003
Violations Cited: S.C. Code Ann. Regs. 61-58.7

Summary: The Town of Summerton (Individual/Entity) owns and is responsible for the proper operation and maintenance of a public water system (PWS) located in Clarendon County, South Carolina. The Department conducted an inspection on April 8, 2021, and the PWS was rated unsatisfactory for failure to properly operate and maintain. The Individual/Entity has violated the State Primary Drinking Water Regulation as follows: the well pad at Well 1 was cracked; the wellhead at Well 1 was leaking; the check valve, sample tap, flow meter, and chlorine detector at Well 1 were not operating properly; evidence of chemical treatment for weeds and insects was found near Well 1; the National Sanitation Foundation certification for the chlorine treatment at Plant 1 could not be provided for Department review; there was no documentation of a water audit or to determine adequate pressure; water was filling the altitude valve pit for the Main Street Storage Tank; both storage tanks were in disrepair; there were no spare parts available in the event of a needed repair; and a complete procedures manual with written programs and logs was not provided for Department review.

Action: The Individual/Entity is required to: correct the deficiencies by September 15, 2021; have both storage tanks inspected by September 15, 2021 and complete the recommendations in the storage tank inspection reports within one hundred eighty (180) days of the date of the reports; flow test all of the fire hydrants and submit a copy of the test results report to the Department for review and approval by December 31, 2021; and repair or replace all hydrants documented in the report as inadequate or inoperable within one hundred twenty (120) days of the date of the Department's written approval. The Department has assessed a total civil penalty in the amount of eight thousand dollars ($8,000.00). The Individual/Entity shall pay a **stipulated penalty** in the amount of eight thousand dollars (**$8,000.00**) should any requirement of the Order not be met.

Update: None

Water Pollution Enforcement

17) Order Type and Number: Administrative Order 21-019-W/21-017-DW
Order Date: May 4, 2021
Individual/Entity: **Town of Clio**
Facility: Town of Clio WWTF & PWS
Location: Branch Lane
Marlboro County, SC
Mailing Address: P.O. Box 487
Clio, SC 29525
County: Marlboro
Previous Orders: None
Permit/ID Number: SC0040606, PWS No. 3410002
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1-110 (c) (2008 & Supp. 2020); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (c) (3) (i) (2011); and State Primary Drinking Water Regulation, S.C. Code Ann. Regs. 61-58.7.D (2) (2011 & Supp. 2020).

Summary: The Town of Clio (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) and public water system (PWS) located in Marlboro County, South Carolina. On May 1, 2021, the Individual/Entity's operator ceased visits to the WWTF and PWS. The Individual/Entity has violated the Pollution Control Act, Water Pollution Control Permit Regulations, and the State Primary Drinking Water Regulation as follows: failed to provide for daily monitoring of the PWS by an operator of appropriate grade and failed to provide for daily inspections of the WWTF by a certified operator of appropriate grade.

Action: The Individual/Entity is required to provide for daily monitoring of the PWS by an operator of appropriate grade and provide for daily inspections of the WWTF by a certified operator of appropriate grade and submit to the Department a copy of the signed contract with the operator by May 9, 2021. The Department has assessed a total civil penalty in the amount of thirteen thousand dollars ($13,000.00). The Individual/Entity shall pay a **stipulated penalty** in the amount of thirteen thousand dollars **($13,000.00)** if any requirement of the Order is not met.

Update: The Individual/Entity complied with the terms of the Order, and the Order was closed on May 18, 2021.

18) Order Type and Number: Administrative Order 21-022-W
Order Date: May 4, 2021
Individual/Entity: **Town of McColl**
Facility: Town of McColl WWTF
Location: 210 East Gibson Avenue
McColl, SC 29570
Mailing Address: 300 South Main Street
McColl, SC 29570
County: Marlboro
Previous Orders: 18-042-W ($4,200.00)
Permit/ID Number: SC0041963

Violations Cited: Pollution Control Act, S.C Code Ann § 48-1- 110 (d) (2008 & Supp. 2019); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (a) and (l)(4) (2011).

Summary: The Town of McColl (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Marlboro County, South Carolina. On June 21, 2019, a Notice of Violation was issued for failing to submit discharge monitoring reports (DMRs) as required by the National Pollutant Discharge Elimination System (NPDES) permit. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulation as follows: failed to submit monthly DMRs as required by its NPDES permit.

Action: The Individual/Entity is required to: submit to the Department DMRs for November 2018, March 2019, April 2020, October 2020, November 2020, and January 2021 monthly monitoring periods and the July 2017 through June 2019 biannual monitoring period by June 4, 2021. The Department has assessed a total civil penalty in the amount of four thousand seven hundred seventy-five dollars ($4,775.00). The Individual/Entity shall pay a civil penalty in the amount of four thousand seven hundred seventy-five dollars **($4,775.00)** by June 4, 2021.

Update: The Individual/Entity failed to submit the required DMRs and payment of the civil penalty. A demand letter has been issued requiring compliance with Order by July 7, 2021.

19) Order Type and Number: Consent Order 21-020-W
Order Date: May 04, 2021
Individual/Entity: **Tuttle Road LLC**
Facility: Tuttle Road Mine
Location: 1109 Hollybrooke Drive
Moncks Corner, SC 29430
Mailing Address: 216 Summer Breeze Way
Moncks Corner, SC 29461
County: Berkeley
Previous Orders: None
Permit/ID Number: SCG731022
Violations Cited: Pollution Control Act, S.C. Code Ann. § 48-1-110 (d) (2008 & Supp. 2019) and Water Pollution Control Permits Regulation, S.C. Code Ann Regs. 61-9.122.41(a) (2011), and NPDES SCG731022

Summary Tuttle Road LLC (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) in Berkeley County, South Carolina. On October 16, 2021, a Notice of Alleged Violation (NOAV) was issued as a result of pH violations reported on discharge monitoring reports submitted to the Department. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulations as follows: failed to comply with the pH effluent limitations of its National Pollutant Discharge Elimination System (NPDES) permit.

Action: The Individual/Entity is required to: submit written notification of the completion date for all corrective actions necessary to resolve the violations by June 4, 2021; conduct a six (6) monitoring event compliance confirmation period upon completion of corrective actions; and implement engineered upgrades to best management practices

as determined by an engineering study should additional violations be observed during the compliance confirmation period. The Department has assessed a total civil penalty in the amount of four thousand two hundred dollars ($4,200.00). The Individual/Entity shall pay a civil penalty in the amount of four thousand two hundred dollars **($4,200.00)** by June 4, 2021.

Update: The Individual/Entity has submitted the notification of completion date for corrective actions and has paid the penalty.

20) Order Type and Number: Consent Order 21-025-W
Order Date: May 14, 2021
Individual/Entity: **Oconee Joint Regional Sewer Authority**
Facility: Coneross Creek WWTF
Location: 623 Return Church Road
Seneca, SC 29679
Mailing Address: Same
County: Oconee
Previous Orders: None
Permit/ID Number: SC0033553
Violations Cited: Pollution Control Act, S.C. Code Ann. § 48-1-90(A)(1), S.C. Code Ann. § 48-1-110(d) and Water Pollution Control Permits Regulation S.C. Code Ann. Regs. 61-9.122.41(e)

Summary: Oconee Joint Regional Sewer Authority (Individual/Entity) owns and is responsible for a WWTF located in Oconee County, South Carolina. On May 29, 2020, the Department issued a Notice of Violation as a result of an unsatisfactory inspection performed at the WWTF. Between October 2019 and September 2020, multiple sewer system overflows were reported to the Department. The Individual/Entity has violated the Pollution Control Act and the Water Pollution Control Permits Regulation, as follows: discharged untreated wastewater into the environment, including waters of the State and failed to at all times properly operate and maintain in good working order and operate as efficiently as possible all facilities and systems of treatment and control.

Action: The Individual/Entity is required to: conduct a capacity, management, operations and maintenance audit and a comprehensive review of the WWTF and collection system by August 14, 2021; submit a Preliminary Engineering Report (PER) addressing planned improvements by March 14, 2022; and, submit a comprehensive management plan within sixty (60) days from Department approval of the PER. The Department has assessed a total civil penalty in the amount of seven thousand, five hundred dollars ($7,500.00). The Individual/Entity shall pay a civil penalty in the amount of seven thousand, five hundred dollars **($7,500.00)** by June 13, 2021.

Update: The Individual/Entity has paid the civil penalty.

21) Order Type and Number: Consent Order 21-026-W
Order Date: May 18, 2021
Individual/Entity: **R.E. Goodson Construction Company**
Facility: Bass Mill Road Mine
Location: Bass Mill Road

Dillon County, SC

Mailing Address: 457 North Springville Road
Darlington, SC 29540

County: Dillon
Previous Orders: None
Permit/ID Number: SCG731484
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1-110 (d) (2008 & Supp. 2019); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (a) (2011).

Summary: R.E. Goodson Construction Company (Individual/Entity) owns and is responsible for the proper operation and maintenance of a mine dewatering facility (MDWF) located in Dillon County, South Carolina. On August 24, 2020, a Notice of Violation was issued as a result of pH violations reported on discharge monitoring reports submitted to the Department. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permit Regulations as follows: failed to comply with the effluent discharge limits of the National Pollutant Discharge Elimination System General Permit for pH.

Action: The Individual/Entity is required to: submit written notification of the completion date for all corrective actions necessary to resolve the violations by June 18, 2021; conduct a six (6) monitoring event compliance confirmation period upon completion of corrective actions; and, implement engineered upgrades to best management practices as determined by an engineering study should additional violations be observed during the compliance confirmation period. The Department has assessed a total civil penalty in the amount of five thousand six hundred dollars ($5,600.00). The Individual/Entity shall pay a civil penalty in the amount of two thousand eight hundred dollars **($2,800.00)** by June 18, 2021, and pay a suspended penalty in the amount of two thousand eight hundred dollars **($2,800.00)** if any requirement of the Order is not met.

Update: The Individual/Entity failed to submit the required notification and payment of civil penalty by the Order due date. Department staff is in contact with the Individual/Entity to facilitate compliance.

22) Order Type and Number: Consent Order 21-028-W
Order Date: May 24, 2021
Individual/Entity: **SI Group, Inc.**
Facility: SI Group, Inc.
Location: 725 Cannon Bridge Road
Orangeburg, SC 29116

Mailing Address: P.O. Box 1028
Orangeburg, SC 29116

County: Orangeburg
Previous Orders: 17-016-W ($4,000.00)
Permit/ID Number: SC0001180
Violations Cited: Pollution Control Act, S.C. Code Ann. § 48-1-110 (d) (2008 & Supp. 2019) and Water Pollution Control Permits Regulation, S.C. Code Ann Regs. 61-9.122.41(a) (2011), and NPDES SC0001180

Summary: SI Group, Inc. (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) in Orangeburg

County, South Carolina. On September 23, 2020, a Notice of Violation was issued as a result of BOD and Fecal Coliform (FC) violations reported on discharge monitoring reports submitted to the Department. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulations as follows: failed to comply with the BOD and FC effluent limitations of its National Pollutant Discharge Elimination System (NPDES) permit.

Action: The Individual/Entity is required to: submit to the Department a corrective action plan (CAP) and a schedule of implementation, reporting the corrective actions taken and corrective actions planned to address the violations by June 24, 2021. The Department has assessed a total civil penalty in the amount of five thousand six hundred dollars ($5,600.00). The Individual/Entity shall pay a civil penalty in the amount of five thousand six hundred dollars **($5,600.00)** by June 24, 2021.

Update: The Individual/Entity has submitted the CAP and has paid the civil penalty.

23) Order Type and Number: Consent Order 21-029-W
Order Date: May 24, 2021
Individual/Entity: **Town of Fort Mill**
Facility: Town of Fort Mill WWTF
Location: 1435 Spratt Street
Fort Mill, SC 29715
Mailing Address: P.O. Box 159
Fort Mill, SC 29715
County: York
Previous Orders: None
Permit/ID Number: SC0020371
Violations Cited: Pollution Control Act, S.C. Code Ann. § 48-1-110(d) (2008 & Supp. 2020), Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.21(d) (2011), and NPDES Permit SC0020371.

Summary: Town of Fort Mill (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) in York County, South Carolina. On January 28, 2021, a Notice of Violation was issued for failure to reapply for permit coverage within one hundred eighty (180) days before the existing permit expires. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permits Regulations as follows: failed to submit an application for renewal of the National Pollutant Discharge Elimination System permit at least one hundred eighty (180) days before the existing permit expires.

Action: The Individual/Entity is required to: submit an administratively complete application for renewal of its NPDES permit by June 8, 2021 and continue operating the WWTF in accordance with the most recent NPDES permit until a new permit becomes effective. The Department has assessed a total civil penalty in the amount of one thousand dollars ($1,000.00). The Individual/Entity shall pay a civil penalty in the amount of one thousand dollars **($1,000.00)** by June 23, 2021.

Update: The Individual/Entity has submitted a renewal application for it NPDES permit and has paid the civil penalty.

24) Order Type and Number: Consent Order 21-027-W
Order Date: May 25, 2021
Individual/Entity: **City of Abbeville**
Facility: Wastewater Treatment Facility
Location: 542 Brookside Drive
Abbeville County, SC
Mailing Address: P.O. Box 639
Abbeville, SC 29620
County: Abbeville
Previous Orders: 19-001-W ($2,520.00)
Permit/ID Number: SC0040614
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1-110 (d) (2008 & Supp. 2020); Water Pollution Control Permits, 3 S.C. Code Ann Regs. 61-9.122.41 (a) and (d) (2011).

Summary: The City of Abbeville (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Abbeville County, South Carolina. On December 10, 2020, a Notice of Violation was issued as a result of aluminum violations reported on discharge monitoring reports submitted to the Department. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permit Regulations as follows: failed to comply with the effluent discharge limits of the National Pollutant Discharge Elimination System Permit for aluminum.

Action: The Individual/Entity corrected the violations prior to the issuance of the Order. The Department has assessed a total civil penalty in the amount of four thousand seven hundred and sixty dollars ($4,760.00). The Individual/Entity shall pay a civil penalty in the amount of four thousand seven hundred and sixty dollars **($4,760.00)** by June 8, 2021.

Update: The Individual/Entity has paid the civil penalty.

25) Order Type and Number: Consent Order 21-030-W
Order Date: May 25, 2021
Individual/Entity: **City of Florence**
Facility: Timmonsville WWTF
Location: 706 South Hill Street
Florence County, SC
Mailing Address: 1000 Stockade Drive
Florence, SC 29506
County: Florence
Previous Orders: None
Permit/ID Number: SC0025356
Violations Cited: Pollution Control Act, S.C Code Ann § 48-1-110 (d) (2008 & Supp. 2020); Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41 (a) and (d) (2011).

Summary: The City of Florence (Individual/Entity) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) located in Florence County, South Carolina. On December 10, 2020, a Notice of Violation was issued

as a result of chronic effluent toxicity (CTOX) violations reported on discharge monitoring reports submitted to the Department. The Individual/Entity has violated the Pollution Control Act and Water Pollution Control Permit Regulations as follows: failed to comply with the effluent discharge limits of the National Pollutant Discharge Elimination System Permit for CTOX.

Action: The Individual/Entity is required to: submit to the Department written notification of the completion date for all corrective actions necessary to resolve the CTOX violations by June 25, 2021; conduct a six (6) quarter compliance confirmation period upon completion of corrective actions; and, implement engineered upgrades to the WWTF should additional violations be observed during the compliance confirmation period. The Department has assessed a total civil penalty in the amount of three thousand dollars ($3,000.00). The Individual/Entity shall pay a civil penalty in the amount of three thousand dollars **($3,000.00)** by June 25, 2021.

Update: The Individual/Entity has submitted the required notification and has paid the assessed civil penalty.

BUREAU OF AIR QUALITY

26)

Order Type and Number:	Consent Order 21-009-A
Order Date:	May 4, 2021
Individual/Entity:	**MH Industries, LLC**
Facility:	MH Industries, LLC
Location:	1000 Robinson Road Greer, SC 29651-6721
Mailing Address:	Same
County:	Spartanburg
Previous Orders:	None
Permit/ID Number:	2060-0540
Violations Cited:	S.C. Code Ann. Regs. 61-62.1, Section II, Permit Requirements

Summary: MH Industries, LLC ("Individual/Entity"), manufactures plastic automotive exterior parts for automobiles at its facility in Spartanburg County, South Carolina. The Individual/Entity has violated South Carolina Air Pollution Control Regulation, as follows: failed to document daily pressure drop readings on each scrubber; failed to document liquid flow readings on each scrubber; failed to maintain daily pressure drop within operational ranges on the primer booth; failed to maintain daily liquid flow within operational ranges on each scrubber; and failed to maintain regenerative thermal oxidizer at or above the minimum operating temperature.

Action: The Individual/Entity is required to: comply with all terms and conditions its permit. The Department has assessed a total civil penalty in the amount of seven thousand five hundred dollars ($7,500.00). The Individual/Entity shall pay a civil penalty in the amount of seven thousand five hundred dollars **($7,500.00)** by June 4, 2021.

Update: The Individual/Entity has paid the civil penalty.

27) Order Type and Number: Consent Order 21-010-A
Order Date: May 7, 2021
Individual/Entity: **South Carolina Public Service Authority**
Facility: SCPSA Rainey Generating Station
Location: 2900 Opry House Road
Iva, SC 29655
Facility: SCPSA Cross Generating Station
Location: 553 Cross Station Road
Pineville, SC 29468
Facility: SCPSA Winyah Generating Station
Location: 661 Steam Plant Drive
Georgetown, SC 29440
Mailing Address: 1 Riverwood Drive
Moncks Corner, SC 29461
County: Anderson; Berkeley; Georgetown
Previous Orders: 18-028-A ($8,500.00)
Permit/ID Number: 0200-0144; 0420-0030; 1140-0005
Violations Cited: U.S. EPA 40 CFR §§ 63.9991(a)(1) and § 63.10000(a), S.C. Code Ann. Regs. 61-62.63.9991(a)(1) and 61-62.63.10000(a), and S.C. Code Ann. Regs. 61-62.1, Section II, *Permit Requirements*

Summary: South Carolina Public Service Authority (Individual/Entity), is a state-owned electric and water utility that operates, in part, a natural gas power plant and two coal-fired power plants in Anderson, Berkeley, and Georgetown Counties, South Carolina. The Individual/Entity has violated U.S. EPA Regulations and South Carolina Air Pollution Control Regulations, as follows: failed to limit NOx emissions to 9 ppmvd, 32.0 lb/hr (dry basis at 15% O2, 3-hr avg.) during Department-approved performance testing at the Rainey Facility; failed to limit PM emissions to 0.030 lb/MMBtu during a Department approved source test at the Cross Facility; and failed to limit PM emissions to 0.030 lb/MMBtu during Department-approved source test conducted at the Winyah Facility.

Action: The Individual/Entity is required to: maintain compliance with all applicable emission limits specified in Subpart UUUUU and the Rainey, Cross, and Winyah TV Permits. The Department has assessed a total civil penalty in the amount of twenty-two thousand, nine hundred and fifty dollars ($22,950.00). The Individual/Entity shall pay a civil penalty in the amount of twenty-two thousand, nine hundred thousand dollars **($22,950.00)** by June 7, 2021.

Update: The Individual/Entity has paid the civil penalty.

BUREAU OF ENVIRONMENTAL HEALTH SERVICES

Food Safety Enforcement

28) Order Type and Number: Consent Order 2021-206-03-002
Order Date: May 6, 2021

Individual/Entity:	**Church's Chicken #904**
Facility:	Church's Chicken #904
Location:	7116 Two Notch Road Columbia, SC 29223
Mailing Address:	980 Hammond Drive, Suite 1100 Atlanta, GA 30328
County:	Richland
Previous Orders:	None
Permit Number:	40-206-08217
Violations Cited:	S.C. Code Ann. Regs. 61-25

Summary: Church's Chicken #904 (Individual/Entity) is a restaurant located in Richland County, South Carolina. The Department conducted inspections on December 22, 2020, December 29, 2020, and February 19, 2021. The Individual/Entity has violated the South Carolina Retail Food Establishment Regulation as follows: failed to ensure that the plumbing system was installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the retail food establishment.

Action: The Individual/Entity is required to operate and maintain the facility in accordance with the requirements of all applicable regulations, including S.C. Regs. 61-25. The Individual/Entity corrected all violations prior to the issuance of the Order. The Department has assessed a total civil penalty in the amount of eight hundred dollars ($800.00). The Individual/Entity shall pay a civil penalty in the amount of eight hundred dollars **($800.00)** by June 6, 2021.

Update: The Individual/Entity has met all requirements of the Order. This Order has been closed.

On-Site Wastewater Enforcement

29)

Order Type and Number:	Administrative Order 21-028-OSWW
Order Date:	May 4, 2021
Individual/Entity:	**Donna Beatrice Horton and Samuel Horton, Jr.**
Facility:	Donna Beatrice Horton and Samuel Horton, Jr.
Location:	114 Watkins Circle Taylors, SC 29687
Mailing Address:	Same
County:	Greenville
Previous Orders:	None
Permit Number:	None
Violations Cited:	S.C. Code Ann. Regs. 61-56

Summary: Donna Beatrice Horton and Samuel Horton, Jr. (Individual/Entity) own property located in Greenville County, South Carolina. The Department conducted an investigation on April 12, 2021, and observed domestic wastewater discharging onto the surface of the ground. The Individual/Entity has violated the South Carolina Onsite Wastewater (OSWW) Systems Regulation as follows: failed to ensure that no septic tank

effluent, domestic wastewater, or sewage was discharged to the surface of the ground without an appropriate permit from the Department.

Action: The Individual/Entity is required to repair the OSWW system within five (5) days to effectively stop the discharging of septic tank effluent, domestic wastewater, or sewage to the surface of the ground; or immediately vacate the residence to eliminate the flow of domestic wastewater to the OSWW system. The Department has assessed a total civil penalty in the amount of five thousand dollars ($5,000.00). The Individual/Entity shall pay a **suspended penalty** in the amount of five thousand dollars **($5,000.00)** should any requirement of the Order not be met.

Update: The Individual/Entity has met all requirements of the Order. This Order has been closed.

30) Order Type and Number: Consent Order 21-026-OSWW
Order Date: May 26, 2021
Individual/Entity: **Brett Schaefer**
Facility: Brett Schaefer
Location: 132 Butler Corner Lane
Ridgeville, SC 29472
Mailing Address: 6945 Curlee Court
Charlotte, NC 28277
County: Berkeley
Previous Orders: None
Permit Number: None
Violations Cited: S.C. Code Ann. Regs. 61-56

Summary: Brett Schaefer (Individual/Entity) was listed as the consulting engineer responsible for supervising the installation and providing the Department with a certified "as-built" plan of the OSWW installation at a property located in Berkeley County, South Carolina. The Department conducted an investigation on February 12, 2021 and determined that the Individual/Entity had not submitted the "as-built" plan to the Department for the Site. The Individual/Entity has violated the South Carolina Onsite Wastewater (OSWW) Systems Regulation as follows: not supervising the installation of the OSWW system and submitting to the Department a certified "as-built" plan of the actual installation, which is the basis for any Final Approval issued by the Department.

Action: The Individual/Entity is required to cease and desist not providing the Department certified "as-built" plans of the actual installation of any OSWW system for which the Individual/Entity is the consulting engineer. The Department has assessed a total civil penalty in the amount of five hundred dollars ($500.00). The Individual/Entity shall pay a civil penalty in the amount of five hundred dollars **($500.00)**.

Update: The Individual/Entity has submitted all requirements of the Order and paid the civil penalty. This Order has been closed.

***** Unless otherwise specified, "Previous Orders" as listed in this report include orders issued by Environmental Affairs Programs within the last five (5) years.

BOARD OF HEALTH AND ENVIRONMENTAL CONTROL
SUMMARY SHEET

July 8, 2021

(X) ACTION/DECISION
( ) INFORMATION

I. INTRODUCTION: The Bureau of Water proposes designation of Santee-Lynches as a capacity use area.

1. Pursuant to S.C. Code Ann. § 49-5-60(A), the Board of the Department of Health and Environmental Control (Department) is directed to desginate Capacity Use Areas where excessive groundwater withdrawal presents potential adverse effects to the natural resources 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.

2. S.C. Code Ann. § 49-5-60(A) states: "In the State where excessive groundwater withdrawal presents potential adverse effects to the natural resources 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 salt water intrusion, the board, after notice and public hearing, in accordance with the Administrative Procedures Act, shall designate a capacity use area. The department, local government authorities, other government agencies, or groundwater withdrawers may initiate the capacity use area designation process. The notice and public hearing must be conducted such that local government authorities, groundwater withdrawers, or the general public may provide comments concerning the capacity use area designation process. A capacity use area must be designated by the board based on scientific studies and evaluation of groundwater resources and may or may not conform to political boundaries."

3. Legislative Review is not required.

II. FACTS:

1. The Department is proposing to desginate Chesterfield, Clarendon, Kershaw, Lee, Richland, and Sumter Counties as the Santee-Lynches Capacity Use Area (SLCUA). The Department has completed an initial assessment of the groundwater conditions in the area (Attachment A) and determined that there is a risk to public health, safety and economic welfare from excessive groundwater withdrawal. Additionally, because large portions of the recharge areas for the primary aquifers of the the coastal plain exsist in the SLCUA, failure to manage groundwater withdrawals pose a significant long-term threat to the long-term integrity of the groundwater source.

2. The Department engaged with stakeholders to receive feedback on the proposed SLCUA. Two virtual public meetings were held on January 5, 2021 and January 12, 2021. Additionally the meetings were recorded and placed on the Department website for public viewing.

5. A Notice of General Public Interest was published in the State Register on March 26, 2021.
6. The Board conducted a public hearing regarding the proposed designation June 10, 2021. At the conclusion of the public hearing, the Board passed a motion closing the verbal comment period, carrying over the hearing to the next Board meeting, and opening a two-week period for written comments.

7. Attachment A presents a summary of the comments received during the two-week written comment period.

8. Attachment B presents full copies of the comments received during the two-week written comment period

4. Department staff requests the Board desginate Chesterfield, Clarendon, Kershaw, Lee, Richland, and Sumter Counties as the Santee-Lynches Capacity Use Area.

III. REQUEST FOR DESIGNATION:

The Bureau of Water respectfully requests the Board designate Chesterfield, Clarendon, Kershaw, Lee, Richland, and Sumter Counties as the Santee-Lynches Capacity Use Area .

Submitted By:

Alexander Butler
Manager, Water Quantity Permitting
Bureau of Water, Environmental Affairs

Approved By

Myra C. Reece
Director of Environmental Affairs

Type text here

Attachments:

A. Summary of Additional Comments Recived
B. Coppies of Comments Received

ATTACHMENT A
SUMMARY OF PUBLIC COMMENTS
PROPOSED SANTEE-LYNCHES CAPACITY USE DESIGN

City of Sumter
Comment: We are in favor of reasonable regulations that will ensure that groundwater resourses in our area of operation are managed and protected.

South Carolina Conservation Coalition
Comment: **...**we strongly urge you to adopt the Santee Lynches Capacity Use Area desgination...

Congaree Riverkeeper
Comment: I am writing to express Congaree Riverkeeper's support of the desgination of the proposed Santee Lynches Capacity Use Area.

City of Manning
Comment: The City of Manning is pleased to report that it supports the establishment of the proposed Santee Lynches Capacity Use Area.

Peter DeLorme
Comment: Thank you for the opportunity to be heard in SUPPORT of creation of the Santee-Lynches Capacity Use Area (S-LCUA) during the Public Hearing portion of your June Board Meeting. My support comes not only from practical experience, but also the irrefutable science and the letter of the law.

Laura Bagwell
Comment: I write to SUPPORT the SCDHEC staff recommendation to establish the Santee-Lynches Groundwater Capacity Use Area.

Miles E. Denham, Jr., PhD	
Comment: I write to SUPPORT establishment of the Santee-Lynches Groundwater Capacity Use Area.	
Dioné C. Carroll, Esq.	
Comment: It is my sincere hope that you will endorse the adoption of the proposed SLCUA, as recommended and supported by your staff.	
W.A.T.E.R	
Comment: The members of W.A.T.E.R. SUPPORT the SCDHEC staff recommendation to establish the Santee-Lynches Groundwater Capacity Use Area	

ATTACHMENT B

COPIES OF ADDITIONAL COMMENTS RECIVED

CITY OF Sumter
UNCOMMON PATRIOTISM

Walt Beard
Director of Utilities
wbeard@sumtersc.gov
(803) 774-7036 Phone

600 Justin Lane
PO Box 1449
Sumter, SC 29150
(803) 436-2626 Fax

June 14, 2021

Mr. Alex Butler, Manager
Water Quantity Permitting, Underground Injection Control
S.C. Department of Health and Environmental Control
2600 Bull Street
Columbia, South Carolina 29201

Re: Santee-Lynches Capacity Use Area Designation

Dear Mr. Butler:

The Water Plants Division of the City of Sumter Utilities Department has the overall responsibility of treating and supplying potable water for residential, industrial, and commercial use as well as supplying sufficient water for firefighting operations. The City operates and maintains the largest groundwater system in the state of South Carolina. Our team operates and maintains six major water plants consisting of 23 deep water wells that produce approximately 5 billion gallons of potable water each year with an average daily consumption of approximately 12 million gallons. The City also operates and/or maintains four small water systems throughout Sumter County.

The City of Sumter spends tremendous resources in time and money to plan and develop our system to meet increases in water demand from all sources; residential, industrial, and commercial. Our planning team focuses on gaining maximum benefit from new well development while preserving the operation of those wells currently operating within the entire system. We are aware that improper and poor planning may lead to diminished groundwater resources and significant decreases in water production. We understand that excessive groundwater withdrawals may present adverse effects which may lead to a long-term threat to public health, safety, and economic welfare.

The City's stance is in alignment with the state of South Carolina General Assembly to protect the general welfare and public interest by ensuring that groundwater resources in our area be put to beneficial use to the fullest extent possible. We are in favor of reasonable regulations that will ensure that groundwater resources in our area of operation are managed and protected.

If you have any questions or require additional information, please contact me at 803-774-7036 (wbeard@sumtersc.gov).

Sincerely,

Walt Beard
Director of Utilities

c: Mr. Al Harris, Assistant City Manager
Mr. Michael Geddings, Director of Public Services

SOUTH CAROLINA
CONSERVATION
COALITION

June 21, 2021

Alex Butler
Bureau of Water
SC Department of Health & Environmental Control
BUTLERAP@DHEC.SC.GOV

CC: Public Comment Record
GWQUANTITY@DHEC.SC.GOV

To: Members of the Board of the South Carolina Department of Health and Environmental Control

Re: Santee-Lynches Groundwater Capacity Use Area designation under consideration

Dear Chairman Elam and Members of the Board,

The Conservation Coalition is a coalition of forty organizations representing approximately 50,000 South Carolinians who work to ensure future generations continue to enjoy the blessings of our richly diverse state.

We are writing to express our strong support for the establishment of the Santee-Lynches Capacity Use Area and urge you to finalize this important program.

S.C. Code says that "where conditions pose a significant threat to the long-term integrity of a groundwater source...the board shall designate a capacity use area."

Studies and assessments by the DHEC, DNR, and USGS have clearly shown that groundwater levels have declined in the aquifers in this 6 county region due to an increase in population, public water supply use, and agricultural activities. In addition, analysis has shown that droughts have reduced groundwater recharge in this region.

In short, groundwater supplies in the Santee-Lynches region of the state are at risk.

The assessment by DHEC, DNR, and USGS show that the proposed Capacity Use Area (CUA) meets the requirements to be designated as a Capacity Use Area. Therefore, increased coordination, transparency, and communication around groundwater use is critical in order to balance decreasing supplies and increasing demand of groundwater – and the potential supply and demand conflicts.

For these reasons, we urge you to adopt the Santee-Lynches Capacity Use Area.

Your approval will allow continued stakeholder collaboration to develop a groundwater management plan for the region.

We recognize that there has been discussion regarding the impacts of establishing a CUA for this region. We believe that any issues regarding the ***implementation*** of a CUA should be discussed through this management plan process, given that it is intended to be a collaborative process that addresses the needs of all stakeholders.

The ***establishment*** of a CUA, however, should take into account the status of groundwater supply and demand as determined in the studies completed by DHEC, DNR, and USGS. Specifically, the SC Code states that "A capacity use area

must be designated by the board based on scientific studies and evaluation of groundwater resources." No scientific studies or evaluations of groundwater resources have been presented that refute the studies and evaluations completed by DHEC, DNR, and USGS.

As such, we believe it is appropriate that Department establish the CUA and begin a collaborative stakeholder process to create a groundwater management plan for the 6 county region.

Finally, establishing the Santee-Lynches CUA will achieve a number of important water quantity management objectives that the conservation community strongly supports. First, it ensures that the groundwater resources of the coastal plain and other CUAs are managed in a similar fashion. This also provides consistency regarding groundwater policies between adjacent counties.

Second, establishing the Santee-Lynches CUA would ensure regulatory certainty and consistency for both local governments and industries across the coastal plain. As far back as 2004, DNR recommended that the entire coastal plain be under a capacity use program.

Finally, establishing a Santee-Lynches CUA ensures that the critical water resources of our state – and this region – are used efficiently and that citizens and industry can continue to have safe and reliable water supplies that enhance the quality of life across our state.

For all of these reasons, we strongly urge you to adopt the Santee-Lynches Capacity Use Area designation for Chesterfield, Clarendon, Kershaw, Lee, Sumter, and Richland Counties.

Sincerely,

South Carolina Conservation Coalition Steering Committee

SC Conservation Coalition Member Organizations:

Aiken Land Conservancy, Inc.
American Institute of Architects (AIA) South Carolina
American Rivers, Southern Appalachia and the Carolinas
Audubon South Carolina
Carolina Wetlands Association
Catawba Riverkeeper Foundation
Charleston Audubon and Natural History Society
Chirping Bird Society
Coastal Conservation League
Congaree Riverkeeper
Conservation Voters of SC Education Fund
Edisto Island Preservation Alliance
Friends of the Edisto
Gullah/Geechee Sea Island Coalition
Gullah/Geechee Fishing Association
Horry Environmental Action Team (HEAT)
Katawba Valley Land Trust
Lake Conestee Nature Park
League of Women Voters of SC
Naturaland Trust
Palmetto Cycling Coalition
Palmetto Pride
Savannah Riverkeeper
Save Our Saluda
SC Chapter of the American Planning Association
SC Environmental Law Project
SC Native Plant Society
SC Trout Unlimited
SC Wildlife Federation
SC Chapter of the Sierra Club
SC Climate Change
Southern Alliance for Clean Energy
Southern Environmental Law Center
SouthWings
U.S. Green Building Council - SC Chapter
Upstate Forever
W.A.T.E.R.

W.A.T.E.R.

Water for Aiken Through Environmental Reform

22 June 2021

Alex Butler
Bureau of Water
SC Department of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201
BUTLERAP@DHEC.SC.GOV

CC:

Public Comment Record
GWQUANTITY@DHEC.SC.GOV

SCDHEC Board of Directors
BOARDCLERK@DHEC.SC.GOV

TO SCDHEC BOARD OF DIRECTORS:

The members of W.A.T.E.R. **SUPPORT** the SCDHEC staff recommendation to establish the Santee-Lynches Groundwater Capacity Use Area (SLCUA). Designation of the SLCUA will:

- ensure a "level playing field" for groundwater withdrawers in all areas of the SC Coastal Plain;
- establish a fair system in which the State's groundwater is put to beneficial use to the fullest extent possible;
- ensure that our groundwater resources are protected, developed, and managed in a sustainable way; and
- finally bring the entire SC Coastal Plain under Capacity Use regulation, as recommended by SCDNR in 2004.

SCDHEC staff – experts in their field – have documented that:

- groundwater use in the proposed SLCUA increased from 14 billion gallons annually in 2014 (then an all-time high) to more than 19.5 billion gallons in 2019 – an unsustainable increase of nearly 40 percent (Figure A);
- increased groundwater use has resulted in two troubling trends, one a pattern of increasing drawdown with each pumping season and another a downward trend in wintertime groundwater rebound (Figure B); and
- in Sumter and Clarendon counties, groundwater levels have dropped as much as 60' in the Crouch Branch Aquifer and up to 80' in the McQueen Branch Aquifer, compared to "pre-development" (circa 1900) levels (Figure C).

As you have studied this issue, you have learned that groundwater loss has drastic implications for all users, but especially for cities that rely on this resource for municipal water supply. You have also learned that groundwater does not obey arbitrary political boundaries. To ensure that this vital resource is managed sustainably for the benefit of all users, it is imperative that SCDHEC establish the SLCUA and finally expand capacity use regulation to the entire SC Coastal Plain, as recommended by SCDNR more than 17 years ago.

We have confidence in your leadership and we thank you for your consideration.

Sincerely,

Peter Delorme
Windsor, SC

Nilda Burke
Windsor, SC

Grace Vance
Aiken, SC

Laura Bagwell
Aiken, SC

For the 160+ members of W.A.T.E.R.
Based in the Western Capacity Use Area and representing the needs of all groundwater users in SC

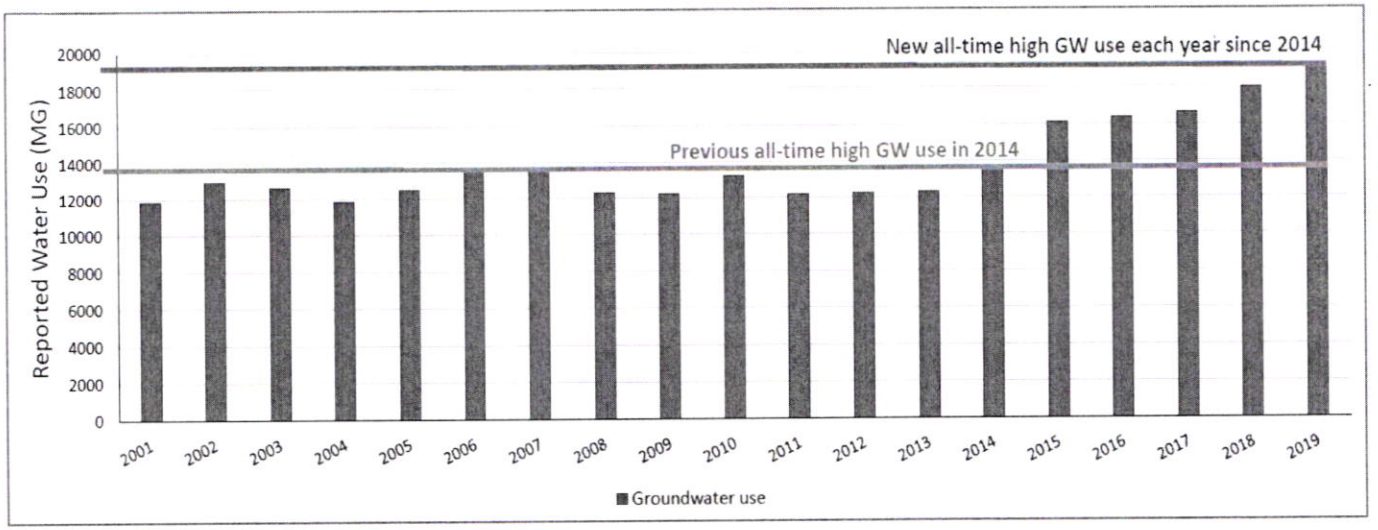


Figure A): Reported groundwater use since 2001 in proposed SLCUA; note dramatic and continued increase in groundwater use beginning in 2014. ***(Modified from SCDHEC Proposed Santee-Lynches Capacity Use Area Public Briefing, 12 January 2021)***

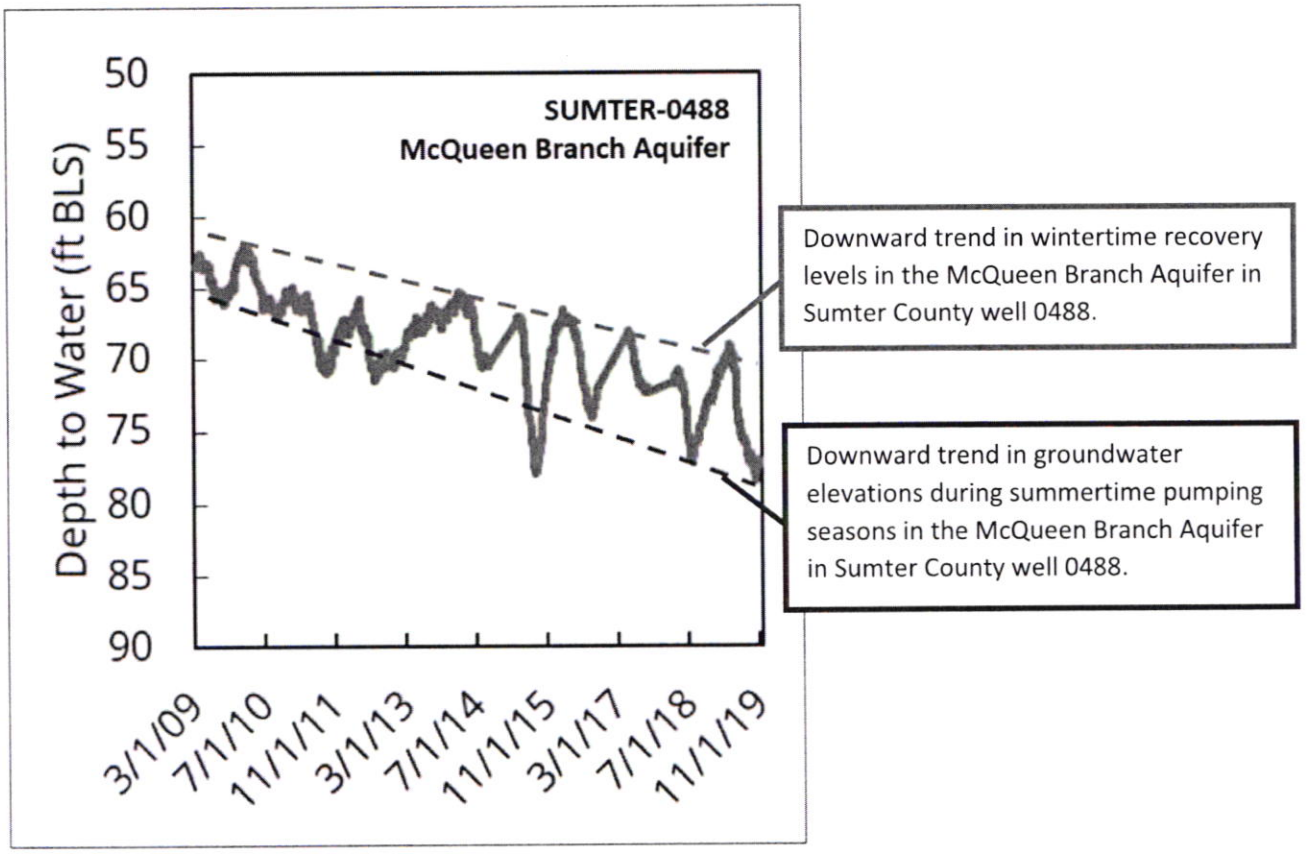
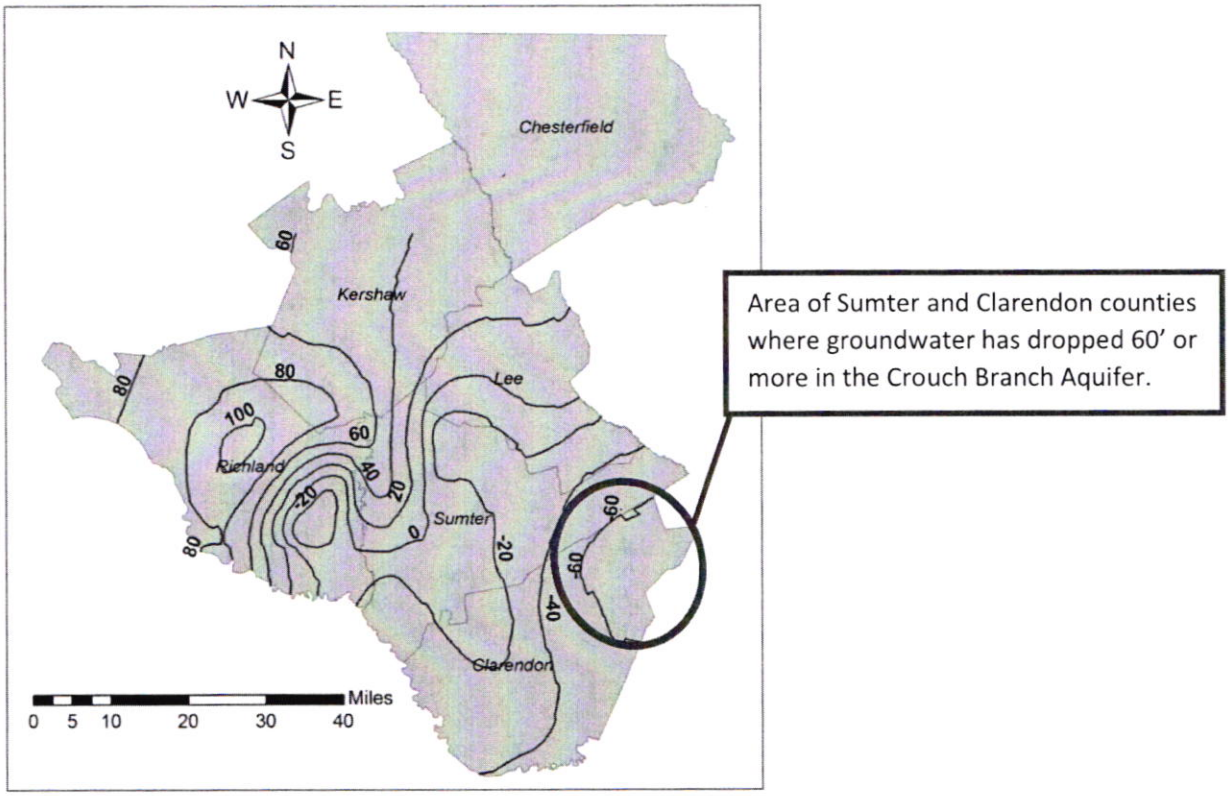


Figure B: Downward trends in groundwater elevations during both summer pumping season (red line) and winter recovery season (green line) in the McQueen Branch Aquifer in Sumter County. ***(Modified from SCDHEC Initial Groundwater Assessment: Chesterfield, Clarendon, Kershaw, Lee, Richland and Sumter Counties, South Carolina, Technical Report Number 013-2020, June 2020)***



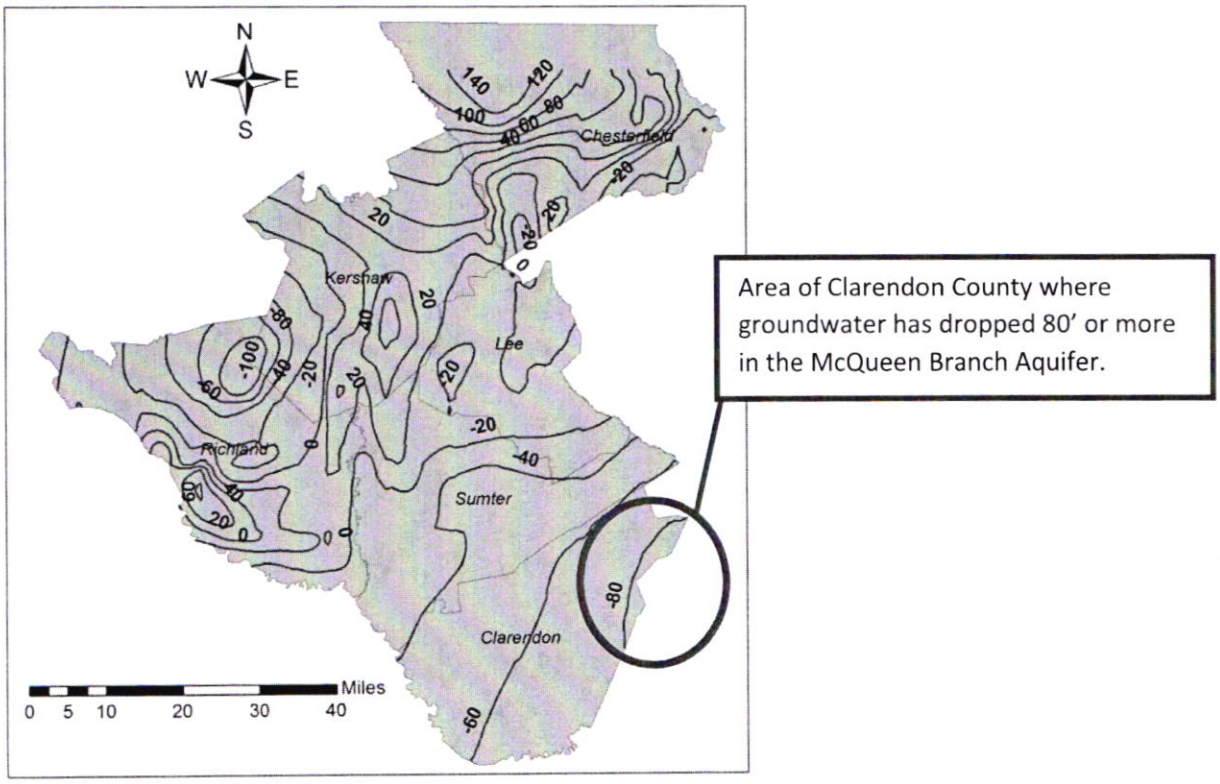


Figure C: Potentiometric maps illustrating change in groundwater elevation in proposed SLCUA; parts of Clarendon and Sumter counties have lost 60' of groundwater in the Crouch Branch Aquifer (top) and up to 80' in the McQueen Branch Aquifer (bottom). ***(Modified from SCDHEC Initial Groundwater Assessment: Chesterfield, Clarendon, Kershaw, Lee, Richland and Sumter Counties, South Carolina, Technical Report Number 013-2020, June 2020)***

23 June 2021

Alex Butler
Bureau of Water
SC Department of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201
BUTLERAP@DHEC.SC.GOV

CC:

Public Comment Record
GWQUANTITY@DHEC.SC.GOV

SCDHEC Board of Directors
BOARDCLERK@DHEC.SC.GOV

TO SCDHEC BOARD OF DIRECTORS:

I write to **SUPPORT** the SCDHEC staff recommendation to establish the Santee-Lynches Groundwater Capacity Use Area (SLCUA). Designation of the SLCUA will:

- ensure a "level playing field" for groundwater withdrawers in all areas of the SC Coastal Plain;
- establish a fair system in which our state's groundwater is used to the fullest extent possible;
- ensure that our groundwater resources are protected and managed in a sustainable way; and
- finally extend Capacity Use regulation to the entire SC coastal plain, as recommended by SCDNR in 2004.

To inform your deliberation and support your decision-making, SCDHEC staff have documented that:

- groundwater use in the proposed SLCUA increased from 14 billion gallons annually in 2014 (then an all-time high) to more than 19.5 billion gallons in 2019 – an unsustainable increase of nearly 40 percent;
- this increase in groundwater use since 2014 is due to irrigation, driven primarily by an increase in the number of acres irrigated for agricultural use;
- increased groundwater use has resulted in a pattern of increasing drawdown with each pumping season and – of greater concern – a downward trend in wintertime groundwater rebound; and
- in Sumter and Clarendon counties, groundwater levels in the Crouch Branch and McQueen Branch Aquifers have dropped as much as 60' and 80', respectively.

In summary, the data clearly indicate that we are using groundwater faster than it can be replenished. When groundwater resources are threatened in this way, the law requires that you act to implement a Capacity Use Area. It is, therefore, imperative that SCDHEC establish the SLCUA and finally expand capacity use regulation to the entire SC Coastal Plain, as recommended by SCDNR more than 17 years ago.

Sincerely,

Laura Bagwell
Commissioner, Aiken Soil & Water Conservation District
Member, Edisto River Basin Council
Secretary, Aiken Land Conservancy

Julia A. Nelson
Mayor

A. Scott Tanner
Administrator

City of Manning
South Carolina

Council

Clayton Pack
Mayor Pro-tem

Erwin L. Davis, Sr.
Julius Dukes, Jr.
Diane D. Georgia
Johnny E. Gordon
Sherry A. Wells

June 23, 2021

Mr. Alex Butler, Water Quantity Section Manager
Bureau of Water
SCDHEC
2600 Bull Street
Columbia, SC 29201

Re: Proposed Santee-Lynches Capacity Use Area

Dear Mr. Butler:

The City of Manning is pleased to report that it supports the establishment of the proposed Santee-Lynches Capacity Use Area. In late 2019, we discovered that the static water levels in our groundwater wells had dropped dramatically and we had a well pump failure in our US Highway 301 well as a result. Since that time, we have lowered the well pumps in our wells at considerable expense.

The use of groundwater in this area must certainly be brought under control. There could be no greater supporter of agribusiness than the City of Manning, but there is also no greater steward of our water resources than the City of Manning. Moreover, there are many important uses of our state's groundwater resources but none more important than human consumption.

Thank you for allowing us to log our comments on this most critical matter. Let us know if you have any questions.

Yours sincerely,

City of Manning

L. Rubin Hardy

L. Rubin Hardy
Public Works Director

Facsimile
(803) 435-4608

Post Office Box 546
Manning, SC 29102

Telephone
(803) 435-8477

www.cityofmanning.org

CAPStone Farm
Windsor, South Carolina

June 23, 2019

Mr. Alexander Butler
Bureau of Water
SC Department of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201
Via eMail to:
butlerap@dhec.sc.gov, GWQUANTITY@DHEC.SC.GOV

To Members of the Board of Directors:

Thank you for the opportunity to be heard in SUPPORT of creation of the Santee-Lynches Capacity Use Area (S-LCUA) during the Public Hearing portion of your June Board Meeting. My support comes not only from practical experience, but also the irrefutable science and the letter of the law.

During the public hearing you heard that a water utility in the proposed S-LCUA had pump failures adjacent to a newly installed high-capacity well. This is precisely the situation that contributed to the call by local landowners in Aiken County for creation of what ultimately became the Western CUA. A local water utility was testing a new well at the same time another large capacity well installed for irrigation began operating. Several nearby homeowners with shallow wells subsequently reported pump failures or the need to lower their pumps. **The shallow and interconnected aquifers in the upper coastal plain require the creation of a management plan the capacity use designation will authorize. Such a plan should prevent further problems caused by incorrectly sited or screened wells.**

In the upper coastal plain the aquifers are interconnected, making the area along the fall line the catchment basin for aquifers as far away as the coast. The initial staff assessment provides ample evidence that in both the short term (shown in the individual well graphics), and the long term (shown in the potentiometric maps), we have unsustainable declines in the aquifers. Per the assessment: **The lowering of the potentiometric surface in these areas is an indication that recharge [rainfall] does not keep pace with groundwater demand.** Taking too much water out of the ground in this area may mean that in the very long term aquifers could subside and/or there will be less water to fight the very salt water intrusion along the coast that is mentioned in the Act.

Your staff has assessed current and historical data to recommend the creation of the S-LCUA. As such, a reading of SECTION 49-5-60 of the Act indicates the Board **shall** designate a capacity use area.

One final note: creation of this CUA will bring the entire coastal plain under management, a condition recommended 17 years ago in SC DNR's 2004 Water Plan. Now is the time to complete that effort and clear the way for creation of a long-overdue update to the State's water plan.

Respectfully submitted,

Peter F. DeLorme, PMP, Homeowner

Support of designating Santee Lynches Capacity Use Area

Congaree Riverkeeper <CRK@congareeriverkeeper.org>

Tue 6/22/2021 2:44 PM

To: GWQuantity <GWQuantity@dhec.sc.gov>
Cc: Butler, Alexander P. <butlerap@dhec.sc.gov>

*** Caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

To whom it may concern,

I am writing to express Congaree Riverkeeper's support of the designation of the proposed Santee-Lynched Capacity Use Area for Chesterfield, Clarendon, Kershaw, Lee, Richland, and Sumter counties.

Congaree Riverkeeper is a grassroots non-profit organization that works to protect the Broad, Lower Saluda and Congaree Rivers in the Midlands region of South Carolina through advocacy, education and enforcement of environmental laws.

Groundwater is a shared resource, and the establishment of the proposed capacity use area will help the State, water users, and other stakeholders better monitor and protect this public trust resource. Additionally, the establishment of the Santee Lynches Capacity Use Area will also fulfil a long time recommendation of the state water plan, that all of South Carolina's coastal plain counties be covered under a capacity use area.

We appreciate the opportunity to provide these comments.

--
Bill Stangler
Congaree Riverkeeper
803-760-3357

Panoramic Environmental Consulting, LLC
PO Box 906
Aiken, SC 29802

24 June 2021

Alex Butler
Bureau of Water
SC Department of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201
BUTLERAP@DHEC.SC.GOV

CC:

Public Comment Record
GWQUANTITY@DHEC.SC.GOV

SCDHEC Board of Directors
BOARDCLERK@DHEC.SC.GOV

TO SCDHEC BOARD OF DIRECTORS:

I write to **SUPPORT** establishment of the Santee-Lynches Groundwater Capacity Use Area (SLCUA). Designation of the SLCUA will:

- ensure a "level playing field" for groundwater withdrawers in all areas of the SC Coastal Plain;
- establish a fair system in which our state's groundwater is used to the fullest extent possible;
- ensure that our groundwater resources are protected and managed in a sustainable way; and
- finally extend Capacity Use regulation to the entire SC coastal plain, as recommended by SCDNR in 2004.

To inform your deliberation and support your decision-making, SCDHEC staff have documented that:

- groundwater use in the proposed SLCUA increased from 14 billion gallons annually in 2014 (then an all-time high) to more than 19.5 billion gallons in 2019 – an unsustainable increase of nearly 40 percent;
- this increase in groundwater use since 2014 is due to irrigation, driven primarily by an increase in the number of acres irrigated for agricultural use;
- increased groundwater use has resulted in a pattern of increasing drawdown with each pumping season and – of greater concern – a downward trend in wintertime groundwater rebound; and
- in Sumter and Clarendon counties, groundwater levels in the Crouch Branch and McQueen Branch Aquifers have dropped as much as 60' and 80', respectively.

In summary, the data clearly indicate that **we are using groundwater faster than it can be replenished**. When groundwater resources are threatened in this way, the law requires that you implement a Capacity Use Area and provide for the creation of a Groundwater Management Plan. It is, therefore, imperative that SCDHEC establish the SLCUA and finally expand capacity use regulation to the entire SC Coastal Plain, as recommended by SCDNR more than 17 years ago.

Sincerely,

Miles E. Denham, Jr., PhD
MDENHAM@PANORAMIC.CONSULTING

CARROLL
LAW OFFICES, P.A.

June 24, 2021

(VIA E-mail: BUTLERAP@DHEC.SC.GOV)

Board Members
c/o Alex Butler
Bureau of Water
South Carolina Department of Health and Environmental Control
2600 Bull St.
Columbia, SC 29201

Re: Comments in Support of a Capacity Use Area Designation for the Santee-Lynches Groundwater Capacity Use Area

Dear SCDHEC Board Members:

The purpose of this letter is to give my complete support for the establishment of the Santee-Lynches Groundwater Capacity Use Area ("SLCUA"). Such designation is necessary and appropriate for many of the reasons designation of the Western Capacity Use Area ("WCUA") was appropriate when you established it a couple of years ago. Comments previously supplied in support of the WCUA can be found at:

https://www.dropbox.com/s/k5gt791ocpdr219/Comments%20on%20Designation%202nd%20FOIA%20-%20Dio%20Carroll.pdf?dl=0

These comments are adopted herein by reference as if fully set forth.

Thank you for your kind consideration. It is my sincere hope that you will endorse the adoption of the proposed SLCUA, as recommended and supported by your staff.

Sincerely,

Dionè Carroll

Dionè C. Carroll, Esq.

Dionè C. Carroll, Esq.
dione@carroll-law-offices.com
www.carroll-law-offices.com
107 Pendleton St. NW
T: 803-514-2557
F: 866-954-0184

SUMMARY SHEET
SOUTH CAROLINA BOARD OF HEALTH AND ENVIRONMENTAL CONTROL

July 8, 2021

(X) ACTION/DECISION
( ) INFORMATION

I. TITLE: Request for Placement of 4F–MDMB–BINACA in Schedule I for Controlled Substances in South Carolina

II. SUBJECT: Placement of 4F–MDMB–BINACA in Schedule I for Controlled Substances

III. FACTS:

Controlled substances are governed by the South Carolina Controlled Substances Act ("CSA"), Title 44, Chapter 53 of the South Carolina Code of Laws. Schedule I substances are listed in Section 44-53-190 of the South Carolina Code of Laws. Pursuant to Section 44-53-160, titled "Manner in which changes in schedule of controlled substances shall be made," controlled substances are generally designated by the General Assembly upon recommendation by the Department. Section 44-53-160(C) provides a process for the Department to expeditiously designate a substance if the federal government has so designated.

South Carolina Section 44-53-160(C) states:

> If a substance is added, deleted, or rescheduled as a controlled substance pursuant to federal law or regulation, the department shall, at the first regular or special meeting of the South Carolina Board of Health and Environmental Control within thirty days after publication in the federal register of the final order designating the substance as a controlled substance or rescheduling or deleting the substance, add, delete, or reschedule the substance in the appropriate schedule. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection has the full force of law unless overturned by the General Assembly. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection must be in substance identical with the order published in the federal register effecting the change in federal status of the substance. Upon the addition, deletion, or rescheduling of a substance, the department shall forward copies of the change to the Chairmen of the Medical Affairs Committee and the Judiciary Committee of the Senate, the Medical, Military, Public and Municipal Affairs Committee, and the Judiciary Committee of the House of Representatives, and to the Clerks of the Senate and House, and shall post the schedules on the department's website indicating the change and specifying the effective date of the change.

The Drug Enforcement Administration ("DEA") is establishing a specific listing and Administration Controlled Substances Code Number (drug code) for 4F–MDMB–BINACA (also known as 4F–MDMB–BUTINACA or methyl 2-(1- (4-fluorobutyl)-1H-indazole-3- carboxamido)-3,3-dimethylbutanoate) in schedule I of the Controlled Substances Act (CSA). Although 4F–MDMB– BINACA is not specifically listed in schedule I of the CSA with its own unique drug code, it has been controlled in the United States since April 2017 as a positional isomer of 5F–AMB, a schedule I hallucinogen. Effective June 22, 2021, DEA is simply amending the schedule I hallucinogenic substances list in its regulations to separately

include 4F– MDMB–BINACA, *Federal Register*, Volume 86, Number 117, pages 32633-32635; *https://* *https://www.govinfo.gov/content/pkg/FR-2021-06-22/pdf/2021-13040.pdf.*

IV. BACKGROUND:

4F–MDMB–BINACA (also known as 4F–MDMB–BUTINACA or methyl 2-(1- (4-fluorobutyl)-1H-indazole-3- carboxamido)-3,3-dimethylbutanoate) is a chemical substance which is structurally related to 5F–AMB (also known as methyl 2-(1-(5-fluoropentyl)- 1H-indazole-3-carboxamido)-3- methylbutanoate). 5F–AMB is listed as a hallucinogenic substance in schedule I at 21 CFR 1308.11(d)(74). The introductory text to subparagraph (d) provides: (1) A listed substance includes ''any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible,'' and (2) the term ''isomer'' includes the optical, position[al], and geometric isomers. When compared to the chemical structure of 5F–AMB, 4F–MDMB– BINACA meets the statutory definition of a positional isomer in 21 CFR 1300.01(b), which cross-references the term ''positional isomer'' in 21 CFR 1308.11(d). Both 5F–AMB and 4F– MDMB–BINACA possess the same molecular formula and core structure and have the same functional groups. They only differ from one another by a rearrangement of an alkyl moiety between functional groups. Accordingly, under 21 CFR 1308.11(d), 4F–MDMB–BINACA, as a positional isomer of 5F–AMB, has been and continues to be a schedule I controlled substance.

This rule does not affect the continuing status of 4F– MDMB–BINACA as a schedule I controlled substance in any way. This action, as an administrative matter, merely establishes a separate, specific listing for 4F–MDMB–BINACA in schedule I of the CSA and assigns a DEA controlled substances code number (drug code) for the substance. This action will allow DEA to establish an aggregate production quota and grant individual manufacturing and procurement quotas to DEA-registered manufacturers of 4F–MDMB–BINACA, who had previously been granted individual quotas for such purposes under the drug code for 5F–AMB.

V. RECOMMENDATION:

Pursuant to S.C. Code Section 44-53-160(C), the Department recommends placing 4F–MDMB–BINACA in Schedule I in schedule I for controlled substances in South Carolina and the amendment of Section 44-53-190(D) of the South Carolina Controlled Substances Act to include:

( ) methyl 2-(1- (4-fluorobutyl)-1H-indazole-3- carboxamido)-3,3-dimethylbutanoate).

Submitted by:

Lisa Thomson
Director, Bureau of Drug Control

Gwen Thompson
Director for Healthcare Quality

Attachment:
Federal Register, Volume 86, Number 117, June 22, 2021

Rules and Regulations

Federal Register
Vol. 86, No. 117
Tuesday, June 22, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–819]

Specific Listing for 4F–MDMB–BINACA, a Currently Controlled Schedule I Substance

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: The Drug Enforcement Administration is establishing a specific listing and Administration Controlled Substances Code Number (drug code) for 4F–MDMB–BINACA (also known as 4F–MDMB–BUTINACA or methyl 2-(1-(4-fluorobutyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate) in schedule I of the Controlled Substances Act (CSA). Although 4F–MDMB–BINACA is not specifically listed in schedule I of the CSA with its own unique drug code, it has been controlled in the United States since April 2017 as a positional isomer of 5F–AMB, a schedule I hallucinogen. Therefore, DEA is simply amending the schedule I hallucinogenic substances list in its regulations to separately include 4F–MDMB–BINACA.

DATES: Effective June 22, 2021.

FOR FURTHER INFORMATION CONTACT: Terrence L. Boos, Drug and Chemical Evaluation, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 362–3249.

SUPPLEMENTARY INFORMATION:

4F–MDMB–BINACA Control

4F–MDMB–BINACA (also known as 4F–MDMB–BUTINACA or methyl 2-(1-(4-fluorobutyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate) is a chemical substance which is structurally related to 5F–AMB (also known as methyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3-methylbutanoate). 5F–AMB is listed as a hallucinogenic substance in schedule I at 21 CFR 1308.11(d)(74). The introductory text to subparagraph (d) provides: (1) A listed substance includes "any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible," and (2) the term "isomer" includes the optical, position[al], and geometric isomers.

When compared to the chemical structure of 5F–AMB, 4F–MDMB–BINACA meets the statutory definition of a positional isomer in 21 CFR 1300.01(b), which cross-references the term "positional isomer" in 21 CFR 1308.11(d). Both 5F–AMB and 4F–MDMB–BINACA possess the same molecular formula and core structure, and have the same functional groups. They only differ from one another by a rearrangement of an alkyl moiety between functional groups. Accordingly, under 21 CFR 1308.11(d), 4F–MDMB–BINACA, as a positional isomer of 5F–AMB, has been and continues to be a schedule I controlled substance.[1]

The Drug Enforcement Administration's Authority To Control 4F–MDMB–BINACA

This rule is prompted by a letter dated May 7, 2020, in which the United States government was informed by the Secretary-General of the United Nations that 4F–MDMB–BINACA has been added to Schedule II of the Convention on Psychotropic Substances of 1971 (1971 Convention). This letter was prompted by a decision at the 63rd Session of the Commission on Narcotic Drugs (CND) in March 2020 to schedule 4F–MDMB–BINACA under Schedule II of the 1971 Convention (CND Dec/63/8). Preceding this decision, the Food and Drug Administration (FDA), on behalf of the Secretary of Health and Human Services and pursuant to 21 U.S.C. 811(d)(2), published two notices in the **Federal Register** with an opportunity to submit domestic information and opportunity to comment on this action, Sept. 10, 2019, 84 FR 47521 and Dec. 31, 2019, 84 FR 72370. In both instances, FDA noted that 4F–MDMB–BINACA was already controlled in schedule I of the Controlled Substances Act (CSA) as a positional isomer of 5F–AMB, and the December 2019 notice stated that no additional permanent controls for 4F–MDMB–BINACA under the CSA would be necessary to fulfill United States' obligations as a party to the 1971 Convention.

As discussed above in this final rule, 4F–MDMB–BINACA—by virtue of being a positional isomer of 5F–AMB—has been controlled in schedule I of the CSA temporarily since April 10, 2017 (82 FR 17119), and permanently since January 24, 2020 (85 FR 4211). Therefore, all regulations and criminal sanctions applicable to schedule I substances have been and remain applicable to 4F–MDMB–BINACA. Drugs controlled in schedule I of the CSA satisfy and exceed the required domestic controls of Schedule II under Article 2 of the 1971 Convention.

Effect of Action

As discussed above, this rule does not affect the continuing status of 4F–MDMB–BINACA as a schedule I controlled substance in any way. This action, as an administrative matter, merely establishes a separate, specific listing for 4F–MDMB–BINACA in schedule I of the CSA and assigns a DEA controlled substances code number (drug code) for the substance. This action will allow DEA to establish an aggregate production quota and grant individual manufacturing and procurement quotas to DEA-registered manufacturers of 4F–MDMB–BINACA, who had previously been granted individual quotas for such purposes under the drug code for 5F–AMB.

Regulatory Analyses

Administrative Procedure Act

An agency may find good cause to exempt a rule from certain provisions of the Administrative Procedure Act (APA) (5 U.S.C. 553), including notice of proposed rulemaking and the opportunity for public comment, if it is determined to be unnecessary, impracticable, or contrary to the public interest. 4F–MDMB–BINACA is currently controlled in schedule I as a positional isomer of 5F–AMB, and 4F–MDMB–BINACA has no currently accepted medical use in treatment to

[1] 5F–AMB (and its isomers) has been subject to schedule I controls since April 2017, first pursuant to a temporary scheduling order (April 10, 2017, 82 FR 17119) and the subsequent one-year extension of that order (April 8, 2019, 84 FR 13796), and then permanently pursuant to a final rule which continued the imposition of those controls (Jan. 24, 2020, 85 FR 4211).

qualify for placement in a schedule other than schedule I (*see* 21 U.S.C. 812(b)(2)–(5)).

Pursuant to 5 U.S.C. 553(b)(3)(B), DEA finds that notice and comment rulemaking is unnecessary and that good cause exists to dispense with these procedures. The addition of a separate listing 4F–MDMB–BINACA and its DEA controlled substances code number in the list of schedule I substances in 21 CFR 1308.11(d) makes no substantive difference in the status of this drug as a schedule I controlled substance, but instead is "a minor or merely technical amendment in which the public is not particularly interested." *National Nutritional Foods Ass'n* v. *Kennedy*, 572 F.2d 377, 385 (2d Cir. 1978) (quoting S. Rep. No. 79–752, at 200 (1945)). *See also Utility Solid Waste Activities Group* v. *E.P.A.*, 236 F.3d 749, 755 (D.C. Cir. 2001) (the "unnecessary" prong "is confined to those situations in which the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and public") (int. quotations and citation omitted). This rule is a "technical amendment" to 21 CFR 1308.11(d) as it is "insignificant in nature and impact, and inconsequential to the industry and public." Therefore, publishing a notice of proposed rulemaking and soliciting public comment are unnecessary.

In addition, because 4F–MDMB–BINACA is already subject to domestic control under schedule I as a positional isomer of 5F–AMB and no additional requirements are being imposed through this action, DEA finds good cause exists to make this rule effective immediately upon publication in accordance with 5 U.S.C. 553(d)(3). DEA is concerned that delaying the effective date of this rule potentially could cause confusion regarding the regulatory status of 4F–MDMB–BINACA. 4F–MDMB–BINACA is currently controlled as a schedule I controlled substance, and this level of control does not change with this rulemaking.

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review)

This regulation has been drafted and reviewed in accordance with the principles of Executive Orders (E.O.) 12866 and 13563. This rule is not a significant regulatory action under E.O. 12866. 4F–MDMB–BINACA already is a controlled substance in the United States under schedule I, as it is a positional isomer of a schedule I hallucinogen, 5F–AMB. In this final rule, DEA is merely making an administrative change by amending its regulations to separately list 4F–MDMB–BINACA in schedule I and to assign the DEA controlled substances code number 7043 to the substance. A separate listing for 4F–MDMB–BINACA and its DEA controlled substances code number will not alter the status of 4F–MDMB–BINACA as a schedule I controlled substance. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988, Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988 to eliminate drafting errors and ambiguity, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132, Federalism

This rulemaking does not have federalism implications warranting the application of E.O. 13132. The rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule does not have tribal implications warranting the application of E.O. 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) applies to rules that are subject to notice and comment under section 553(b) of the APA or other laws. As noted in the above section regarding the applicability of the APA, DEA determined that there was good cause to exempt this final rule from notice and comment. Consequently, the RFA does not apply.

Paperwork Reduction Act of 1995

This action does not impose a new collection of information requirement under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501–3521. This action would not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1532, DEA has determined that this action would not result in any Federal mandate that may result "in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year." Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

Congressional Review Act

This rule is not a major rule as defined by the Congressional Review Act (CRA), 5 U.S.C. 804. However, pursuant to the CRA, DEA is submitting a copy of this rule to both Houses of Congress and to the Comptroller General.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, DEA amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 2. Amend § 1308.11 by adding paragraph (d)(87) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(87) methyl 2-(1-(4-fluorobutyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate (4F–MDMB–BINACA, 4F–MDMB–BUTINACA) 7043

* * * * *

D. Christopher Evans,

Acting Administrator.

[FR Doc. 2021–13040 Filed 6–21–21; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2021–0401]

Safety Zone; Southern California Annual Fireworks for the San Diego Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for the Sea World Fireworks for nightly shows from Memorial Day to Labor Day in 2021, to provide for the safety of life on navigable waterways during this event. Our regulation for the Southern California annual fireworks for the San Diego Captain of the Port Zone identifies the regulated area for the events. During the enforcement period, no spectators shall anchor, block, loiter in, or impede the transit of official patrol vessels in the regulated area without the approval of the Captain of the Port, or his designated representative.

DATES: The regulations 33 CFR 165.1123 will be enforced for the location identified in Item 7 of Table 1 to § 165.1123 from 8:30 p.m. until 10 p.m., each day without actual notice from June 22, 2021 through September 6, 2021. For the purposes of enforcement, actual notice will be used from June 15, 2021 until June 22, 2021.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Lieutenant Commander John Santorum, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone 619–278–7656, email *MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the regulations in 33 CFR 165.1123 for a safety zone for the Sea World Fireworks on the waters of Mission Bay, CA in § 165.1123, Table 1, Item 7 of that section, from 8:30 p.m. until 10 p.m. on specific evenings from Memorial Day to Labor Day in 2021. This action is being taken to provide for the safety of life on navigable waterways during the fireworks events. Our regulation for Southern California annual fireworks events for the San Diego Captain of the Port Zone identifies the regulated area for the events. Under the provisions of § 165.1123, a vessel may not enter the regulated area, unless it receives permission from the Captain of the Port, or his designated representative. Spectator vessels may safely transit outside the regulated area but may not anchor, block, loiter, or impede the transit of participants or official patrol vessels. The Coast Guard may be assisted by other Federal, State, or Local law enforcement agencies in enforcing this regulation.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners.

Dated: June 15, 2021.

T.J. Barelli,

Captain, U. S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2021–13022 Filed 6–21–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0435]

RIN 1625–AA00

Safety Zone; Northeast Shelter Island Closure, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone covering the channel closure for the Northeast Shelter Island Channel Entrance. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the California Department of Fish and Wildlife (CDFW) Oil Spill Prevention and Response (OSPR) Sensitive Site Strategy Evaluation Program (SSSEP) boom deployment exercise. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector San Diego.

DATES: This rule is effective from 8:30 a.m. until 10:30 a.m. on June 22, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0435 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associate with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR John Santorum, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619–278–7656, email *MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because NPRM would be impracticable. The Coast Guard did not receive the details of the Sensitive Site Strategy Evaluation Program boom deployment excersise with enough time to solicit and repond to public comments on an NPRM. As such, the channel closure on June 22, 2021 would occur before an NPRM and final rule could be issued.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest, because action is necessary to protect personnel, vessels, and the marine environment from the dangers associated with the CDFW OSPR SSSEP boom deployment exercise on June 22, 2021.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector San Diego (COTP) has determined that potential hazards associated with the CDFW OSPR SSSEP boom deployment exercise will be a safety concern to anyone

SUMMARY SHEET
SOUTH CAROLINA BOARD OF HEALTH AND ENVIRONMENTAL CONTROL

July 8, 2021

(X) ACTION/DECISION
( ) INFORMATION

I. TITLE: Request for Placement of para-Methoxymethamphetamine in Schedule I for Controlled Substances in South Carolina

II. SUBJECT: Placement of para-Methoxymethamphetamine in Schedule I for Controlled Substances

III. FACTS:

Controlled substances are governed by the South Carolina Controlled Substances Act ("CSA"), Title 44, Chapter 53 of the South Carolina Code of Laws. Schedule I substances are listed in Section 44-53-190 of the South Carolina Code of Laws. Pursuant to Section 44-53-160, titled "Manner in which changes in schedule of controlled substances shall be made," controlled substances are generally designated by the General Assembly upon recommendation by the Department. Section 44-53-160(C) provides a process for the Department to expeditiously designate a substance if the federal government has so designated.

South Carolina Section 44-53-160(C) states:

> If a substance is added, deleted, or rescheduled as a controlled substance pursuant to federal law or regulation, the department shall, at the first regular or special meeting of the South Carolina Board of Health and Environmental Control within thirty days after publication in the federal register of the final order designating the substance as a controlled substance or rescheduling or deleting the substance, add, delete, or reschedule the substance in the appropriate schedule. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection has the full force of law unless overturned by the General Assembly. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection must be in substance identical with the order published in the federal register effecting the change in federal status of the substance. Upon the addition, deletion, or rescheduling of a substance, the department shall forward copies of the change to the Chairmen of the Medical Affairs Committee and the Judiciary Committee of the Senate, the Medical, Military, Public and Municipal Affairs Committee, and the Judiciary Committee of the House of Representatives, and to the Clerks of the Senate and House, and shall post the schedules on the department's website indicating the change and specifying the effective date of the change.

On June 25, 2021, the Drug Enforcement Administration ("DEA") published a final rule which places 1-(4- methoxyphenyl)-N-methylpropan-2- amine (paramethoxymethamphetamine, ("PMMA"), including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, in schedule I of the Controlled Substances Act ("CSA"). This final rule imposes the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, import, export, engage in research, conduct instructional activities or chemical analysis, or possess), or propose to handle PMMA. This final rule was published June 25, 2021 with an effective date of July 26, 2021, *Federal Register*,

Volume 86, Number 120, pages 33508-33510; *https:// https://www.govinfo.gov/content/pkg/FR-2021-06-25/pdf/2021-13460.pdf.*

IV. ANALYSIS:

Para-Methoxymethamphetamine ("PMMA") is a substituted phenethylamine and shares structural similarity to methamphetamine, a schedule II controlled substance, and para-methoxyamphetamine (PMA), a schedule I controlled substance. PMMA shares a similar pharmacological profile with 3,4-methylenedioxymethamphetamine ("MDMA" or ecstasy), a schedule I controlled substance with high potential for abuse. Data obtained from preclinical studies show that, similar to MDMA, PMMA's effects are mediated by monoaminergic (dopamine, norepinephrine, and serotonin) transmission, mostly via activation of the serotonergic system. In animals, PMMA mimics MDMA in producing discriminative stimulus effect, which is indicative of similar subjective effects. Law enforcement has encountered PMMA on the recreational drug market where it is sold as ''ecstasy,'' either alone or in combination with MDMA or PMA for oral consumption. For many years, PMMA has been involved in nonfatal and fatal overdoses, primarily in Europe. PMMA has no accepted medical use in treatment in the United States. In March 2016, the Commission on Narcotic Drugs ("CND") voted to place PMMA in Schedule I of the 1971 Convention (CND Dec/59/3) during its 59th Session due to its dependence and abuse potential.

On December 18, 2018, Health and Human Services ("HHS") provided to DEA a scientific and medical evaluation and scheduling recommendation for PMMA. DEA reviewed HHS' evaluation and recommendation for schedule I placement, and all other relevant data, pursuant to 21 U.S.C. 811(b) and (c), and conducted its own analysis under the eight factors stipulated in 21 U.S.C. 811(c). DEA found, under 21 U.S.C. 812(b)(1), that this substance warrants control in schedule I.

After consideration of the scientific and medical evaluation and accompanying recommendation of HHS, and after its own eight-factor evaluation, DEA finds that these facts and all other relevant data constitute substantial evidence of the potential for abuse of PMMA. DEA is permanently scheduling PMMA as a controlled substance under the CSA. The CSA establishes five schedules of controlled substances known as schedules I, II, III, IV, and V. The CSA also specifies the findings required to place a drug or other substance in any particular schedule. 21 U.S.C. 812(b). After consideration of the analysis and recommendation of the Assistant Secretary for Health of HHS and review of all other available data, the Acting Administrator of DEA (Acting Administrator), pursuant to 21 U.S.C. 811(a) and 812(b)(1), finds that:

1) The Drug or Substance Has a High Potential for Abuse

PMMA has a mechanism of action similar to that of MDMA, a schedule I controlled substance. Similar to MDMA, PMMA increases levels of monoamines, specifically DA and 5–HT, in the brain reward circuitry. Data from animal studies demonstrate that PMMA fully substitutes for the discriminative stimulus effect of MDMA, which is indicative of similar subjective effects. Although there is currently no data that has directly assessed the psychological or physiological dependence liability of PMMA, its pharmacological similarities to MDMA suggest it likely has low physical dependence liability. Evidence demonstrates that users of PMMA are often seeking MDMA, which may be mixed with PMMA. PMMA shares a pharmacological mechanism of action and psychoactive effects similar to the schedule I controlled substance MDMA and therefore has a high potential for abuse.

2) The Drug or Substance Has No Currently Accepted Medical Use in Treatment in the United States

According to HHS, the Food and Drug Administration ("FDA") has not approved any marketing application for a drug product containing PMMA for any indication. In addition, there are no clinical studies or petitioners that have claimed an accepted medical use of PMMA in the United States. Thus, PMMA has no currently accepted medical use in treatment in the United States

3) There is a Lack of Accepted Safety for Use of the Drug or Substance Under Medical Supervision

The safety of PMMA for use under medical supervision has not been determined because it has no approved medical use in treatment in the United States and has not been investigated as a new drug. Therefore, there is a lack of accepted safety for use of PMMA under medical supervision. Based on these findings, the Acting Administrator concludes that PMMA as well as its salts, isomers, and salts of isomers whenever the existence of such isomers and salts is possible within the specific chemical designation warrants control in schedule I of the CSA. 21 U.S.C. 812(b)(1).

V. RECOMMENDATION:

Pursuant to S.C. Code Section 44-53-160(C), the Department recommends placing 1-(4- methoxyphenyl)-N-methylpropan-2- amine (paramethoxymethamphetamine) in Schedule I in the same manner as the federal Drug Enforcement Administration. The listing includes its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation to schedule I for controlled substances in South Carolina and the amendment of Section 44-53-190(D) of the South Carolina Controlled Substances Act to include:

( ) 1-(4-methoxyphenyl)-N-methylpropan-2-amine (other names: para-methoxymethamphetamine, PMMA).

Submitted by:

Lisa Thomson
Director, Bureau of Drug Control

Gwendolyn C. Thompson
Director for Healthcare Quality

Attachment:
Federal Register, Volume 86, Number 120, June 25, 2021

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–509]

Schedules of Controlled Substances: Placement of para-Methoxymethamphetamine (PMMA) in Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: With the issuance of this final rule, the Drug Enforcement Administration places 1-(4-methoxyphenyl)-*N*-methylpropan-2-amine (*para*-methoxymethamphetamine, PMMA), including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, in schedule I of the Controlled Substances Act to enable the United States to meet its obligations under the 1971 Convention on Psychotropic Substances. This action imposes the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, import, export, engage in research, conduct instructional activities or chemical analysis, or possess), or propose to handle PMMA.

DATES: Effective July 26, 2021.

FOR FURTHER INFORMATION CONTACT: Terrence L. Boos, Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 362–3249.

SUPPLEMENTARY INFORMATION:

Legal Authority

The United States is a party to the 1971 United Nations Convention on Psychotropic Substances (1971 Convention), February 21, 1971, 32 U.S.T. 543, 1019 U.N.T.S. 175, as amended. Procedures respecting changes in drug schedules under the 1971 Convention are governed domestically by 21 U.S.C. 811(d)(2)(4). When the United States receives notification of a scheduling decision pursuant to Article 2 of the 1971 Convention adding a drug or other substance to a specific schedule, the Secretary of the Department of Health and Human Services (HHS),[1] after consultation with the Attorney General, shall determine whether existing legal controls under subchapter I of the Controlled Substances Act (CSA) and the Federal Food, Drug, and Cosmetic Act meet the requirements of the schedule specified in the notification with respect to the specific drug or substance. 21 U.S.C. 811(d)(3). In the event that the Secretary of HHS did not so consult with the Attorney General, and the Attorney General did not issue a temporary order, as provided under 21 U.S.C. 811(d)(4), the procedures for permanent scheduling set forth in 21 U.S.C. 811(a) and (b) control. Pursuant to 21 U.S.C. 811(a)(1), the Attorney General may, by rule, schedule or transfer between schedules any drug or other substance, if he finds that such drug or other substance has a potential for abuse, and makes the findings prescribed by 21 U.S.C. 812(b) to schedule the drug or other substance. The Attorney General has delegated this scheduling authority to the Administrator of the Drug Enforcement Administration (DEA). 28 CFR 0.100.

Background

para-Methoxymethamphetamine (PMMA) is a substituted phenethylamine and shares structural similarity to methamphetamine, a schedule II controlled substance, and *para*-methoxyamphetamine (PMA), a schedule I controlled substance. PMMA shares a similar pharmacological profile with 3,4-methylenedioxymethamphetamine (MDMA or ecstasy), a schedule I controlled substance with high potential for abuse. Data obtained from preclinical studies show that, similar to MDMA, PMMA's effects are mediated by monoaminergic (dopamine, norepinephrine, and serotonin) transmission, mostly via activation of the serotonergic system. In animals, PMMA mimics MDMA in producing discriminative stimulus effect, which is indicative of similar subjective effects. Law enforcement has encountered PMMA on the recreational drug market where it is sold as "ecstasy," either alone or in combination with MDMA or PMA for oral consumption. For many years, PMMA has been involved in non-fatal and fatal overdoses, primarily in Europe. PMMA has no accepted medical use in treatment in the United States. In March 2016, the Commission on Narcotic Drugs (CND) voted to place PMMA in Schedule I of the 1971 Convention (CND Dec/59/3) during its 59th Session due to its dependence and abuse potential.

DEA and HHS Eight Factor Analyses

On December 18, 2018, in accordance with 21 U.S.C. 811(b), and in response to DEA's April 7, 2017 request, HHS provided to DEA a scientific and medical evaluation and scheduling recommendation for PMMA. DEA reviewed HHS' evaluation and recommendation for schedule I placement, and all other relevant data, pursuant to 21 U.S.C. 811(b) and (c), and conducted its own analysis under the eight factors stipulated in 21 U.S.C. 811(c). DEA found, under 21 U.S.C. 812(b)(1), that this substance warrants control in schedule I. Both DEA and HHS 8-Factor analyses are available in their entirety under the tab "Supporting Documents" of the public docket for this action at *http://www.regulations.gov* under Docket Number "DEA–509."

Notice of Proposed Rulemaking to Schedule PMMA

On May 15, 2020 (85 FR 29359), DEA published a notice of proposed rulemaking (NPRM) to permanently control PMMA in schedule I. Specifically, DEA proposed to add PMMA to the hallucinogenic substances list under 21 CFR 1308.11(d), and assign paragraph number 79 under paragraph (d) to PMMA. The NPRM provided an opportunity for interested persons to file a request for hearing in accordance with DEA regulations on or before June 15, 2020. No requests for such a hearing were received by DEA. The NPRM also provided an opportunity for interested persons to submit comments on or before June 15, 2020. DEA did not receive any comments.

Scheduling Conclusion

After consideration of the scientific and medical evaluation and accompanying recommendation of HHS, and after its own eight-factor evaluation, DEA finds that these facts and all other relevant data constitute substantial evidence of the potential for abuse of PMMA. DEA is permanently scheduling PMMA as a controlled substance under the CSA.

Determination of Appropriate Schedule

The CSA establishes five schedules of controlled substances known as schedules I, II, III, IV, and V. The CSA also specifies the findings required to

[1] As discussed in a memorandum of understanding entered into by the Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA), FDA acts as the lead agency within HHS in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518, March 8, 1985. The Secretary of HHS has delegated to the Assistant Secretary for Health of HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.

place a drug or other substance in any particular schedule. 21 U.S.C. 812(b). After consideration of the analysis and recommendation of the Assistant Secretary for Health of HHS and review of all other available data, the Acting Administrator of DEA (Acting Administrator), pursuant to 21 U.S.C. 811(a) and 812(b)(1), finds that:

(1) The Drug or Substance Has a High Potential for Abuse

PMMA has a mechanism of action similar to that of MDMA, a schedule I controlled substance. Similar to MDMA, PMMA increases levels of monoamines, specifically DA and 5–HT, in the brain reward circuitry. Data from animal studies demonstrate that PMMA fully substitutes for the discriminative stimulus effect of MDMA, which is indicative of similar subjective effects. Although there is currently no data that has directly assessed the psychological or physiological dependence liability of PMMA, its pharmacological similarities to MDMA suggest it likely has low physical dependence liability. Evidence demonstrates that users of PMMA are often seeking MDMA, which may be mixed with PMMA. PMMA shares a pharmacological mechanism of action and psychoactive effects similar to the schedule I controlled substance MDMA and therefore has a high potential for abuse.

(2) The Drug or Substance Has No Currently Accepted Medical Use in Treatment in the United States

According to HHS, the Food and Drug Administration (FDA) has not approved any marketing application for a drug product containing PMMA for any indication. In addition, there are no clinical studies or petitioners that have claimed an accepted medical use of PMMA in the United States. Thus, PMMA has no currently accepted medical use in treatment in the United States.[2]

[2] Although there is no evidence suggesting that PMMA has a currently accepted medical uses in treatment in the United States, it bears noting that a drug cannot be found to have such medical use unless DEA concludes that it satisfies a five-part test. Specifically, with respect to a drug that has not been approved by FDA, to have a currently accepted medical use in treatment in the United States, all of the following must be demonstrated: i. the drug's chemistry must be known and reproducible; ii. there must be adequate safety studies; iii. there must be adequate and well-controlled studies proving efficacy; iv. the drug must be accepted by qualified experts; and v. the scientific evidence must be widely available. 57 FR 10499 (1992), *pet. for rev. denied, Alliance for Cannabis Therapeutics* v. *DEA*, 15 F.3d 1131, 1135 (D.C. Cir. 1994).

(3) There is a Lack of Accepted Safety for Use of the Drug or Substance Under Medical Supervision

The safety of PMMA for use under medical supervision has not been determined because it has no approved medical use in treatment in the United States and has not been investigated as a new drug. Therefore, there is a lack of accepted safety for use of PMMA under medical supervision.

Based on these findings, the Acting Administrator concludes that PMMA as well as its salts, isomers, and salts of isomers whenever the existence of such isomers and salts is possible within the specific chemical designation warrants control in schedule I of the CSA. 21 U.S.C. 812(b)(1).

Summary of Minor Change in the Final Rule

As discussed in the above NPRM section, DEA proposed to place PMMA in 21 CFR 1301.11(d) as paragraph number 79. Since the publication of this NPRM, DEA has issued several final rules which updated the numbering of listed hallucinogenic substances in paragraph (d). As a result, this final rule assigns paragraph number 88 to PMMA.

Requirements for Handling PMMA

PMMA is subject to the CSA's schedule I regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, import, export, engagement in research, conduct of instructional activities or chemical analysis with, and possession of schedule I controlled substances, including the following:

1. *Registration.* Any person who handles (manufactures, distributes, reverse distributes, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses), or who desires to handle, PMMA must be registered with DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, 958, and in accordance with 21 CFR parts 1301 and 1312.

2. *Disposal of stocks.* Any person who does not desire or is not able to obtain a schedule I registration to handle PMMA must surrender all quantities of currently held PMMA, or transfer all quantities of currently held PMMA to a person registered with DEA. PMMA must be disposed of in accordance with 21 CFR part 1317, in addition to all other applicable Federal, State, local, and tribal laws.

3. *Security.* PMMA is subject to schedule I security requirements and must be handled and stored pursuant to 21 U.S.C. 823 and in accordance with 21 CFR 1301.71–1301.76. Non-practitioners handling PMMA must also comply with the employee screening requirements of 21 CFR 1301.90–1301.93.

4. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of PMMA must comply with 21 U.S.C. 825, and be in accordance with 21 CFR part 1302.

5. *Quota.* Only registered manufacturers are permitted to manufacture PMMA in accordance with a quota assigned, pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303.

6. *Inventory.* Every DEA registrant who possesses any quantity of PMMA must take an inventory of PMMA on hand pursuant to 21 U.S.C. 827, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11(a) and (d).

Any person who becomes registered with DEA must take an initial inventory of all stocks of controlled substances (including PMMA) on hand on the date the registrant first engages in the handling of controlled substances, pursuant to 21 U.S.C. 827,and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11(a) and (b).

After the initial inventory, every DEA registrant must take an inventory of all controlled substances (including PMMA) on hand every two years, pursuant to 21 U.S.C. 827, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

7. *Records and Reports.* Every DEA registrant must maintain records and submit reports for PMMA, or products containing PMMA, pursuant to 21 U.S.C. 827, and in accordance with 21 CFR 1301.74(b) and (c) and parts 1304, 1312, and 1317. Manufacturers and distributors must submit reports regarding PMMA to the Automation of Reports and Consolidated Order System pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304 and 1312.

8. *Order Forms.* Every DEA registrant who distributes PMMA must comply with order form requirements, pursuant to 21 U.S.C. 828, and in accordance with 21 CFR part 1305.

9. *Importation and Exportation.* All importation and exportation of PMMA must be in compliance with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312.

10. *Liability.* Any activity involving PMMA not authorized by, or in violation of, the CSA or its implementing regulations, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review)

In accordance with 21 U.S.C. 811(a), this final scheduling action is subject to formal rulemaking procedures performed "on the record after opportunity for a hearing," which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth the procedures and criteria for scheduling a drug or other substance. Such actions are exempt from review by the Office of Management and Budget (OMB) pursuant to section 3(d)(1) of Executive Order (E.O.) 12866 and the principles reaffirmed in E.O. 13563.

Executive Order 12988, Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988 to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132, Federalism

This rulemaking does not have federalism implications warranting the application of E.O. 13132. The rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule does not have tribal implications warranting the application of E.O. 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Regulatory Flexibility Act

The Acting Administrator, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601–612, has reviewed this final rule, and by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities.

DEA is placing the substance PMMA (chemical name 1-(4-methoxyphenyl)-*N*-methylpropan-2-amine), including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, in schedule I of the CSA to enable the United States to meet its obligations under the 1971 Convention. This action imposes the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis with, or possess) or propose to handle PMMA.

Based on the review of HHS' scientific and medical evaluation and all other relevant data, DEA determined that PMMA has a high potential for abuse, has no currently accepted medical use in treatment in the United States, and lacks accepted safety for use under medical supervision. DEA's research confirms that there is no legitimate commercial market for PMMA in the United States. Therefore, DEA estimates that no United States entity currently handles PMMA and does not expect any United States entity to handle PMMA in the foreseeable future. DEA concludes that no legitimate United States entity would be affected by this rule. As such, this rule will not have a significant effect on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1501 *et seq.*, DEA has determined and certifies that this action would not result in any Federal mandate that may result "in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year * * *." Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

Paperwork Reduction Act of 1995

This action does not impose a new collection of information under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501–3521. This action would not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Congressional Review Act

This rule is not a major rule as defined by the Congressional Review Act (CRA), 5 U.S.C. 804. However, pursuant to the CRA, DEA is submitting a copy of this final rule to the Government Accountability Office, the House, and the Senate under the CRA.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1308 is amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 2. Amend § 1308.11 by adding paragraph (d)(88) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(88) 1-(4-methoxyphenyl)-*N*-methylpropan-2-amine (other names: *para*-methoxymethamphetamine, PMMA) ..... (1245)

* * * * *

D. Christopher Evans,

Acting Administrator.

[FR Doc. 2021–13460 Filed 6–24–21; 8:45 am]

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