

**61–93. STANDARDS FOR LICENSING FACILITIES FOR CHEMICALLY
DEPENDENT OR ADDICTED PERSONS. [TRANSFERRED]**

(Statutory Authority: 1976 Code §§ 44–7–260 et seq.)

Editor's Note

Unless otherwise noted, the following constitutes the history for 61–93, 101 to 3223.

HISTORY: Added by State Register Volume 12, Issue No. 2, eff February 26, 1988. Amended by State Register Volume 25, Issue No. 5, Part 1, eff May 25, 2001; State Register Volume 34, Issue No. 6, eff June 25, 2010; State Register Volume 39, Issue No. 6, Doc. No. 4464, eff June 26, 2015; SCSR 44–6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–93.

SECTION 100. Transferred.

HISTORY: Former Regulation, titled DEFINITIONS AND LICENSURE, had the following history: Amended by SCSR 44–6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–93 § 100.

SECTION 200. Transferred.

HISTORY: Former Regulation, titled ENFORCEMENT OF REGULATIONS, had the following history: Amended by SCSR 44–6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–93 § 200.

SECTION 300. Transferred.

HISTORY: Former Regulation, titled ENFORCEMENT ACTIONS, had the following history: Amended by SCSR 44–6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–93 § 300.

SECTION 400. Transferred.

HISTORY: Former Regulation, titled POLICIES AND PROCEDURES (II), had the following history: Amended by SCSR 44–6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–93 § 400.

SECTION 500. Transferred.

HISTORY: Former Regulation, titled STAFF AND TRAINING, had the following history: Amended by SCSR 44–6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–93 § 500.

SECTION 600. Transferred.

HISTORY: Former Regulation, titled REPORTING, had the following history: Amended by SCSR 44–6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–93 § 600.

SECTION 700. Transferred.

HISTORY: Former Regulation, titled PATIENT RECORDS, had the following history: Amended by SCSR 44–6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–93 § 700.

SECTION 800. Transferred.

HISTORY: Former Regulation, titled ADMISSION (I), had the following history: Amended by SCSR 44–6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–93 § 800.

SECTION 900. Transferred.

HISTORY: Former Regulation, titled PATIENT CARE, TREATMENT, AND SERVICES, had the following history: Amended by SCSR 44-6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-93 § 900.

SECTION 1000. Transferred.

HISTORY: Former Regulation, titled PATIENT RIGHTS AND ASSURANCES, had the following history: Amended by SCSR 44-6 Doc. No. 4954, eff June 26, 2020; SCSR 44-6 Doc. No. 4954, eff June 26, 2020 (errata). Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-93 § 1000.

SECTION 1100. Transferred.

HISTORY: Former Regulation, titled PATIENT PHYSICAL EXAMINATION, had the following history: Amended by SCSR 44-6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-93 § 1100.

SECTION 1200. Transferred.

HISTORY: Former Regulation, titled MEDICATION MANAGEMENT, had the following history: Amended by SCSR 44-6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-93 § 1200.

SECTION 1300. Transferred.

HISTORY: Former Regulation, titled MEAL SERVICE, had the following history: Amended by SCSR 44-6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-93 § 1300.

SECTION 1400. Transferred.

HISTORY: Former Regulation, titled EMERGENCY PROCEDURES AND DISASTER PREPAREDNESS, had the following history: Amended by SCSR 44-6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-93 § 1400.

SECTION 1500. Transferred.

HISTORY: Former Regulation, titled FIRE PREVENTION, had the following history: Amended by SCSR 44-6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-93 § 1500.

SECTION 1600. Transferred.

HISTORY: Former Regulation, titled MAINTENANCE, had the following history: Amended by SCSR 44-6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-93 § 1600.

SECTION 1700. Transferred.

HISTORY: Former Regulation, titled INFECTION CONTROL AND ENVIRONMENT, had the following history: Amended by SCSR 44-6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-93 § 1700.

SECTION 1800. Transferred.

HISTORY: Former Regulation, titled QUALITY IMPROVEMENT PROGRAM (II), had the following history: Amended by SCSR 44-6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-93 § 1800.

SECTION 1900. Transferred.

HISTORY: Former Regulation, titled DESIGN AND CONSTRUCTION, had the following history: Amended by SCSR 44-6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-93 § 1900.

SECTION 2000. Transferred.

HISTORY: Former Regulation, titled FIRE PROTECTION, PREVENTION, AND LIFE SAFETY (I), had the following history: Amended by SCSR 44–6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–93 § 2000.

SECTION 2100. Transferred.

HISTORY: Reserved by SCSR 44–6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–93 § 2100.

SECTION 2200. Transferred.

HISTORY: Reserved by SCSR 44–6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–93 § 2200.

SECTION 2300. Transferred.

HISTORY: Reserved by SCSR 44–6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–93 § 2300.

SECTION 2400. Transferred.

HISTORY: Former Regulation, titled ELECTRICAL, had the following history: Amended by SCSR 44–6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–93 § 2400.

SECTION 2500. Transferred.

HISTORY: Reserved by SCSR 44–6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–93 § 2500.

SECTION 2600. Transferred.

HISTORY: Former Regulation, titled PHYSICAL PLANT, had the following history: Amended by SCSR 44–6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–93 § 2600.

SECTION 2700. Transferred.

HISTORY: Former Regulation, titled SEVERABILITY, had the following history: Amended by SCSR 44–6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–93 § 2700.

SECTION 2800. Transferred.

HISTORY: Former Regulation, titled GENERAL, had the following history: Amended by SCSR 44–6 Doc. No. 4954, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–93 § 2800.

61–94. WIC VENDORS. [TRANSFERRED]

(Statutory Authority: S.C. Code Section 43–5–930, 1976, as amended.)

SECTION 101. Transferred.

HISTORY: Former Regulation, titled Definitions, had the following history: Amended by State Register Volume 41, Issue No. 5, Doc. No. 4671, eff May 26, 2017; SCSR 47–5 Doc. No. 5120, eff May 26, 2023. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–94 § 101.

SECTION 201. Transferred.

HISTORY: Former Regulation, titled Approval of Vendors, had the following history: Amended by State Register Volume 41, Issue No. 5, Doc. No. 4671, eff May 26, 2017; SCSR 47–5 Doc. No. 5120, eff May 26, 2023. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–94 § 201.

SECTION 301. Transferred.

HISTORY: Former Regulation, titled Processing EBT/eWIC Transactions, had the following history: Amended by State Register Volume 41, Issue No. 5, Doc. No. 4671, eff May 26, 2017; SCSR 47–5 Doc. No. 5120, eff May 26, 2023. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–94 § 301.

SECTION 401. Transferred.

HISTORY: Former Regulation, titled Vendor eWIC Settlement Payments, had the following history: Amended by State Register Volume 41, Issue No. 5, Doc. No. 4671, eff May 26, 2017; SCSR 47–5 Doc. No. 5120, eff May 26, 2023. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–94 § 401.

SECTION 501. Transferred.

HISTORY: Former Regulation, titled Monitoring of Vendors, had the following history: Amended by State Register Volume 41, Issue No. 5, Doc. No. 4671, eff May 26, 2017. Renumbered from 61–94 § 701 and amended by SCSR 47–5 Doc. No. 5120, eff May 26, 2023. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–94 § 501.

SECTION 601. Transferred.

HISTORY: Former Regulation, titled Disqualifications and Sanctions, had the following history: Amended by State Register Volume 41, Issue No. 5, Doc. No. 4671, eff May 26, 2017. Renumbered from 61–94 § 801 and amended by SCSR 47–5 Doc. No. 5120, eff May 26, 2023. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–94 § 601.

SECTION 701. Transferred.

HISTORY: Former Regulation, titled Program Violations, had the following history: Amended by State Register Volume 41, Issue No. 5, Doc. No. 4671, eff May 26, 2017. Renumbered from 61–94 § 901 and amended by SCSR 47–5 Doc. No. 5120, eff May 26, 2023. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–94 § 701.

SECTION 801. Transferred.

HISTORY: Former Regulation, titled Administrative Appeals, had the following history: Amended by State Register Volume 41, Issue No. 5, Doc. No. 4671, eff May 26, 2017. Renumbered from 61–94 § 1001 and amended by SCSR 47–5 Doc. No. 5120, eff May 26, 2023. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–94 § 801.

61–95. Transferred.

HISTORY: Former Regulation, titled Medicaid Nursing Home Permits, had the following history: Added by State Register Volume 13, Issue No. 5, eff May 26, 1989. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–95.

61–96. Repealed.

HISTORY: Former Regulation, titled Athletic Trainers, had the following history: Added by State Register Volume 13, Issue No. 6, eff June 23, 1989. Amended by State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 34, Issue No. 5, eff May 28, 2010; State Register Volume 39, Issue No. 6, Doc. No. 4496, eff June 26, 2015; SCSR 45–5 Doc. No. 4996, eff May 28, 2021. Repealed by SCSR 49–5 Doc. No. 5344, eff May 23, 2025.

61–97. STANDARDS FOR LICENSING RENAL DIALYSIS FACILITIES. [TRANSFERRED]

(Statutory Authority: 1976 Code §§ 44–7–260 et seq.)

Editor's Note

Unless noted otherwise, the following constitutes the history for 61–97, Section 101 to App. A.

HISTORY: Added by State Register Volume 13, Issue No. 5, eff May 26, 1989; Amended by State Register Volume 17, Issue No. 2, eff February 26, 1993; State Register Volume 34, Issue No. 6, eff June 25, 2010. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–97.

SECTION 100. Transferred.

HISTORY: Former Regulation, titled DEFINITIONS AND LICENSURE, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 100.

SECTION 200. Transferred.

HISTORY: Former Regulation, titled ENFORCEMENT OF REGULATIONS, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 200.

SECTION 300. Transferred.

HISTORY: Former Regulation, titled ENFORCEMENT ACTIONS, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 300.

SECTION 400. Transferred.

HISTORY: Former Regulation, titled POLICIES AND PROCEDURES, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 400.

SECTION 500. Transferred.

HISTORY: Former Regulation, titled STAFF AND TRAINING, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 500.

SECTION 600. Transferred.

HISTORY: Former Regulation, titled REPORTING, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 600.

SECTION 700. Transferred.

HISTORY: Former Regulation, titled PATIENT RECORDS, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 700.

SECTION 800. Transferred.

HISTORY: Reserved by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 800.

SECTION 900. Transferred.

HISTORY: Former Regulation, titled PATIENT CARE AND SERVICES, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 900.

SECTION 1000. Transferred.

HISTORY: Former Regulation, titled PATIENT'S RIGHTS AND ASSURANCES, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 1000.

SECTION 1100. Transferred.

HISTORY: Former Regulation, titled PATIENT PHYSICAL EXAMINATIONS, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 1100.

SECTION 1200. Transferred.

HISTORY: Former Regulation, titled MEDICATION MANAGEMENT, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 1200.

SECTION 1300. Transferred.

HISTORY: Reserved by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 1300.

SECTION 1400. Transferred.

HISTORY: Former Regulation, titled EMERGENCY PROCEDURES AND DISASTER PREPAREDNESS, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 1400.

SECTION 1500. Transferred.

HISTORY: Former Regulation, titled FIRE PREVENTION, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 1500.

SECTION 1600. Transferred.

HISTORY: Former Regulation, titled MAINTENANCE, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 1600.

SECTION 1700. Transferred.

HISTORY: Former Regulation, titled INFECTION CONTROL, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 1700.

SECTION 1800. Transferred.

HISTORY: Former Regulation, titled QUALITY IMPROVEMENT PROGRAM, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 1800.

SECTION 1900. Transferred.

HISTORY: Former Regulation, titled DESIGN AND CONSTRUCTION, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 1900.

SECTION 2000. Transferred.

HISTORY: Former Regulation, titled FIRE PROTECTION, PREVENTION, AND LIFE SAFETY, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 2000.

SECTION 2100. Transferred.

HISTORY: Former Regulation, titled GENERAL CONSTRUCTION, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 2100.

SECTION 2200. Transferred.

HISTORY: Reserved by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 2200.

SECTION 2300. Transferred.

HISTORY: Former Regulation, titled WATER SUPPLY, had the following history: Amended by SCSR 44-6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-97 § 2300.

SECTION 2400. Transferred.

HISTORY: Former Regulation, titled ELECTRICAL, had the following history: Amended by SCSR 44–6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–97 § 2400.

SECTION 2500. Transferred.

HISTORY: Former Regulation, titled HEATING, VENTILATION, AND AIR CONDITIONING (HVAC), had the following history: Amended by SCSR 44–6 Doc. No. 4953, eff June 26, 2020. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–97 § 2500.

SECTION 2600. Transferred.

HISTORY: Former Regulation, titled PHYSICAL PLANT, had the following history: Amended by SCSR 44–6 Doc. No. 4953, eff June 26, 2020. Transferred from 61–97 § 2600 by SCSR 49–5 Doc. No. 5352, eff May 23, 2025.

SECTION 2700. Transferred.

HISTORY: Former Regulation, titled SEVERABILITY, had the following history: Amended by SCSR 44–6 Doc. No. 4953, eff June 26, 2020. Transferred from 61–97 § 2700 by SCSR 49–5 Doc. No. 5352, eff May 23, 2025.

61–98. STATE UNDERGROUND PETROLEUM ENVIRONMENTAL RESPONSE BANK (SUPERB) SITE REHABILITATION AND FUND ACCESS REGULATION.

(Statutory Authority: 1976 Code §§ 44–2–10 et seq., 48–6–10 et seq., and 2023 Act No. 60, effective July 1, 2024)

Unless otherwise noted, the following constitutes the history for 61–98, Section I to Section V.

HISTORY: Added by State Register Volume 19, Issue No. 2, eff February 24, 1995; Amended by State Register Volume 20, Issue No. 6, Part 1, eff June 28, 1996; State Register Volume 21, Issue No. 5, eff May 23, 1997.

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SECTION I. Scope and Definitions.

A. Scope. This regulation, promulgated pursuant to the State Underground Petroleum Environmental Response Bank Act (SUPERB), sets forth certain requirements for site rehabilitation for releases from underground storage tanks (USTs) governed under the SUPERB Act and Regulation 61–92; accessing the SUPERB account; certification of site rehabilitation contractors and suspension and decertification of site rehabilitation contractors by the Department of Environmental Services (the Department).

B. Definitions.

1. Active Remediation. Physical actions taken to reduce the concentrations of chemicals of concern.

2. Affiliate. Persons are affiliates of each other if, directly or indirectly, either one controls or has the power to control the other, or a third person controls or has the power to control both. Indicia of control include, but are not limited, to: interlocking management or ownership, identity of interest among family members, shared facilities and equipment, common use of employees, or a business entity organized following the suspension or debarment of a person which has the same or similar management, ownership or principal employees as the suspended, debarred, or voluntarily excluded person.

3. Attenuation. The reduction in concentrations of chemicals of concern in the environment with distance and time due to processes that include, but are not limited to, diffusion, dispersion, and absorption.

4. Carcinogen. Substances which have been classified for human carcinogenic risk by the U.S. Environmental Protection Agency.

5. Certification. An action taken by the Department in accordance with this regulation to authorize a contractor to perform site rehabilitation under the SUPERB Act.

6. Chemicals of Concern. Specific constituents that are identified for evaluation in the risk assessment process.

7. Civil Judgment. The disposition of a civil action by any court of competent jurisdiction, whether entered by verdict, decision, settlement, stipulation, or otherwise.

8. Corrective Action. A subset of site rehabilitation activities conducted to protect human health, safety, and the environment. These activities include recovery of free-product, evaluating risks, evaluating and implementing intrinsic remediation, making no further action decisions, implementing institutional controls, active remediation, designing and operating cleanup systems and equipment, and monitoring of progress.

9. Corrective Action Plan. A document outlining proposed corrective actions.

10. Direct Exposure Pathway. An exposure pathway where the point of exposure is at the source without a release to any other medium (for example, inhalation of vapors or dermal contact with free-product).

11. Engineering Controls. Modifications to a site, such as capping or water treatment at the point of use, to reduce or eliminate the potential for exposure to chemicals of concern.

12. Engineering Report. A document outlining the proposed technical equipment specifications of a corrective action system.

13. Exposure. Contact of a receptor(s) with chemicals of concern. Exposure is quantified as the amount of the chemical of concern available at the exchange boundaries, such as skin or lungs, and available for absorption by the human body.

14. Exposure Assessment. The determination or estimation, qualitative or quantitative, of the magnitude, frequency, duration, and route of exposure.

15. Exposure Factor. An intake variable value, either established by the Environmental Protection Agency or based on site-specific data, used to estimate an exposure concentration.

16. Exposure Pathway. The course chemicals of concern take from the source area(s) to an exposed organism. An exposure pathway describes a unique mechanism by which a receptor(s) is exposed to chemicals of concern. A complete exposure pathway includes a source or release from a source, an exposure point, and an exposure route. If the exposure point differs from the source, a transport/exposure media (e.g., ground water) is included.

17. Exposure Point. The point at which it is assumed that a receptor, either potential or actual, can come into contact, either now or in the future, with the chemicals of concern. Maximum contaminant levels or other existing water quality standards must be met at the exposure point.

18. Exposure Route. The manner in which chemicals of concern come in contact with an organism (i.e., ingestion, inhalation, dermal contact).

19. **Familial Relationship.** A connection or association by family or relatives, in which a family member or relative has a material interest. Family or relatives include: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, or fiancée.

20. **Financial Relationship.** A connection or association through a material interest of sources of income which exceed five percent of annual gross income from a business entity.

21. **Hazard Index.** The sum of two or more hazard quotients for multiple regulated substances and/or multiple exposure pathways which impact the same target organ or act by the same method of toxicity.

22. **Hazard Quotient.** The ratio of a single substance exposure level over a specific time period to a reference dose for that substance derived from a similar exposure period.

23. **Indirect Exposure Pathways.** An exposure pathway with at least one intermediate release to any media between the source and the point of exposure (for example, leaching of chemicals of concern from soils to ground water).

24. **Institutional Controls.** The restriction on use of or access to a site to eliminate or minimize potential exposure to chemicals of concern.

25. **Intrinsic Remediation.** The verifiable reduction of concentrations of chemicals of concern through naturally occurring microbial activity or attenuation mechanisms.

26. **Legal Proceedings.** Any criminal proceedings or any civil judicial proceedings to which the Federal, State, or Local government or quasi-governmental authority is a party. The term includes appeals from such proceedings.

27. **Maximum Contaminant Level.** A standard for drinking water established by U.S. Environmental Protection Agency under the Safe Drinking Water Act which is the maximum permissible level of chemicals of concern in water which is used as a drinking water supply.

28. **Non-Carcinogen.** Substances shown either through epidemiological studies or through laboratory studies to cause adverse health effects other than cancer.

29. **Notice.** A written communication served in person or sent by certified mail, return receipt requested, or its equivalent, to the last known address of a party, its identified counsel, its agent for service of process, or any partner, officer, director, owner, or joint venturer of the party. Notice, if undeliverable, shall be considered in effect five days after being properly sent to the last address known by the Department.

30. **Person.** An individual, partnership, corporation, or other legal entity organized or united for a business purpose, or a governmental agency.

31. **Point(s) of Compliance.** A location(s) selected between the source area and the exposure point(s) where chemicals of concern must be at or below the determined target levels in specific media (e.g., soil, ground water, air).

32. **Proposal.** A plan, request, invitation to consider or similar communication outlining cost, labor, or equipment estimates by or on behalf of a person seeking to directly or indirectly participate or to receive a benefit, directly or indirectly, from site rehabilitation.

33. **Reasonably Anticipated Future Use.** Future land use which can be predicted given current use, local government planning, and zoning.

34. **Reasonable Maximum Exposure.** Combination of upper-bound and mid-range exposure factors to be used in dose estimation equations to provide a result which represents an exposure scenario that is both protective and reasonable; not the worst case.

35. **Receptors.** Persons, structures, utilities, surface water, sensitive habitats, water supply wells, or other living organisms that are, or may be, affected by a release.

36. **Related Interest.** Affiliated companies, principal owners of the client company, or any other party with which the client deals where one of the parties can influence the management or operation policies of the other.

37. Release. Means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from an underground storage tank into subsurface soils, ground water, or surface water.

38. Risk. The probability that a chemical of concern, when released into the environment, will cause an adverse effect in exposed humans or other living organisms.

39. Risk Assessment. An analysis of the potential for adverse health effects caused by chemicals of concern to determine the need for corrective action. Also used to develop target levels where remedial action is required.

40. Risk Reduction. The lowering or elimination of the level of risk posed to human health or the environment through initial response action, corrective action, or institutional or engineering controls.

41. Risk-Based Screening Levels. Risk based, non site-specific, corrective action target levels for chemicals of concern.

42. Sensitive Habitat. Fresh and salt water fisheries, fish habitats including shellfish areas, coastal and inland wetlands, and habitats of threatened or endangered species.

43. Site. Includes all land, regardless of ownership considerations or property boundaries, which is directly affected by the chemicals of concern.

44. Site Classification. A qualitative evaluation of a site based on known or readily available information.

45. Site Conceptual Exposure Model. An analysis of the current and reasonably potential future pathways based on reasonably anticipated receptors and current and reasonably anticipated future use to identify complete exposure pathways. The analysis should be documented in a flow chart or diagram, or other appropriate format, to depict the complete exposure pathways. The site conceptual exposure model should be updated as additional information is obtained for the site.

46. Site Rehabilitation. Cleanup actions taken in response to a release from a UST which includes, but is not limited to, assessment, investigation, evaluation, planning, design, engineering, construction, or other services put forth to investigate or cleanup affected subsurface soils, ground water or surface water.

47. Site Rehabilitation Contractor. An individual or corporation, other than the owner/operator, who performs site rehabilitation under the SUPERB Act and this regulation.

48. Site-Specific Target Level. Risk-based corrective action target levels for chemicals of concern developed for a particular site under the Tier 2 and Tier 3 evaluations.

49. Source Area. Either the location of free-phase hydrocarbons or the location of highest soil and ground-water concentration of the chemicals of concern.

50. Tier 1 Evaluation. A risk-based analysis where non-site-specific values based on conservative exposure factors (i.e., risk-based screening levels), potential exposure pathways, and land use are evaluated to determine appropriate actions.

51. Tier 2 Evaluation. A risk-based analysis applying the risk-based screening levels at the exposure point, development of site-specific target levels for potential indirect exposure pathways based on site-specific conditions, and establishment of points of compliance.

52. Tier 3 Evaluation. A risk-based analysis to develop values for potential direct and indirect exposure pathways at the exposure point based on site-specific conditions.

53. UST. Underground Storage Tank, as defined in Regulation 61-92.280.12.

54. Wellhead Protection Area. A Department approved area surrounding public water supply wells that is designed to protect the wells from threats by: 1) direct introduction of chemicals of concern in the immediate well area, 2) microbial contaminant, and 3) chemicals of concern.

HISTORY: Amended by SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

SECTION II. Site Rehabilitation Risk-Based Corrective Action Procedures.

Risk-Based corrective action procedures outlined in this Section shall apply to all petroleum and petroleum product releases from underground storage tanks.

A. General Site Rehabilitation Requirements.

1. UST owners or operators shall implement site rehabilitation activities based on this regulation and on performance standards and criteria developed by the Department. Alternate approaches that accomplish the same goals as the performance standards will also be approvable. The UST owner or operator shall, upon Department approval, begin site rehabilitation activity and monitor, evaluate, and report the results of the activity in accordance with a schedule and in a format approved by the Department.

2. The current use and reasonably anticipated future use of sites shall be considered in making risk-based decisions including, but not limited to, the development of site conceptual exposure models, establishment of exposure points, and corrective actions. The reasonably anticipated future use of sites shall be determined based on factors such as: the current use of the site; zoning laws; comprehensive community master plans; population growth patterns and projections; accessibility of the site to existing infrastructure such as transportation and public utilities; site location in relation to urban, residential, commercial, industrial, agricultural, and recreational areas; Federal/State land use designation; historical or recent development patterns; and location of Wellhead Protection Areas.

3. UST owners or operators must take actions to prevent further releases, control fire and explosion hazards, and remove free product pursuant to the UST Control Regulations, R.61-92, Section 280.

B. Site Priority System, Risk Evaluation, and Corrective Action for Releases of Petroleum and Petroleum Products.

1. UST releases, regardless of its time of occurrence, shall be classified using this priority system.
 - a. Releases are placed in Classification 1 if any one of the following conditions exists:
 - (1) an emergency situation;
 - (2) a fire or explosion hazard;
 - (3) vapors or free product in a structure or utility;
 - (4) concentrations of chemicals of concern have been detected in a potable water supply or surface water supply intake;
 - (5) free product exists on surface water;
 - (6) chemicals of concern exist in surface water.
 - b. Releases are placed in Classification 2a if any one of the following conditions exists:
 - (1) a significant near term (zero to one year) threat to human health, safety, or sensitive environmental receptors;
 - (2) potable supply wells or surface water supply intakes are located less than one year ground-water travel distance downgradient of the source area.
 - c. Releases are placed in Classification 2b if any one of the following conditions exists:
 - (1) free product in a monitoring well measured at greater than one foot thickness;
 - (2) potable supply wells or surface water supply intakes are located less than 1000 feet downgradient of the source area (where ground-water velocity data is not available).
 - d. Releases are placed in Classification 3a if any one of the following conditions exists:
 - (1) a short term (one to two years) threat to human health, safety, or sensitive environmental receptors;
 - (2) potable supply wells or surface water supply intakes are located greater than one year and less than two years ground-water travel distance downgradient of the source area;
 - (3) sensitive habitats or surface water exist less than one year ground-water travel distance downgradient of the source area and the ground water discharges to the sensitive habitat or surface water.
 - e. Releases are placed in Classification 3b if any one of the following conditions exists:
 - (1) free product in a monitoring well measured at greater than 0.01 foot thickness and less than one foot thickness;

(2) concentrations of chemicals of concern above the risk-based screening levels have been detected in a non-potable water supply well;

(3) concentrations of chemicals of concern in surface soil (less than three feet below grade) in areas that are not paved;

(4) sensitive habitats or surface water used for contact recreation are less than 500 feet downgradient of the source area (where ground-water velocity and discharge location data are not available);

(5) the site is located in a sensitive hydrogeologic setting, determined based on the presence of fractured or carbonate bedrock hydraulically connected to the impacted aquifer;

(6) ground water is encountered less than 15 feet below grade and the site geology is predominantly sand or gravel.

f. Releases are placed in Classification 4a if any one of the following conditions exists:

(1) a long term (greater than two years) threat to human health, safety, or sensitive environmental receptors;

(2) potable supply wells or surface water supply intakes are located greater than two years and less than five years ground-water travel distance downgradient of the source area;

(3) non-potable supply wells are located less than one year ground water travel distance downgradient of the source area.

g. Releases are placed in Classification 4b if any one of the following conditions exists:

(1) free product exists as a sheen in any monitoring wells;

(2) non-potable supply wells are located less than 1000 feet downgradient of the source area (where ground-water velocity data is not available);

(3) the ground water is encountered less than 15 feet and the site geology is predominantly silt or clay.

h. Releases are placed in Classification 5 if any one of the following conditions exists:

(1) there is no demonstrable threat, but additional data are needed to show that there are no unacceptable risks posed by the site;

(2) assessment data for the site indicate concentrations of chemicals of concern are above the risk-based screening levels or site-specific target levels, as appropriate, and further assessment is needed;

(3) assessment data for the site indicate concentrations of chemicals of concern are below the risk-based screening levels or site-specific target levels, as appropriate, but the samples are determined to not be representative; therefore, further assessment is needed.

i. The Department or owner or operator may re-evaluate the priority of a release upon receipt of additional information. However, the Department shall make the final decision as to priority classification.

2. The following risk-based corrective action procedures shall be used for releases from USTs upon Department approval. Risk evaluations shall be performed in accordance with this regulation and applicable Department performance standards and criteria.

a. The information necessary for a Tier 1 evaluation includes, but is not limited to, the following:

(1) A review of historical records of site activities and past releases;

(2) Quantification of the concentrations of the chemicals of concern;

(3) Parameters necessary to utilize soil leachability models, if appropriate;

(4) Location of source(s) of chemicals of concern;

(5) Location of maximum concentrations of chemicals of concern in soil and ground water;

(6) Determination of regional or site-specific hydrogeologic conditions such as depth to ground water, ground-water flow direction, hydraulic gradient, ground-water flow velocity;

- (7) Determination if the chemicals of concern in the soil will leach to ground water in excess of risk-based screening levels;
 - (8) Location of current and reasonable future receptors;
 - (9) Identification of potential significant transport and exposure pathways.
 - (10) Determination of current and reasonably anticipated future use of the property, ground water, surface water, and sensitive habitats where the release has occurred and the surrounding property.
 - (11) If an exposure is identified, concentrations of chemicals of concern measured at point(s) of exposure.
- b. The UST owner or operator shall use the data collected as described in (a) to evaluate the risk presented by the release using the following Tier 1 evaluation method:
- (1) Develop a site conceptual exposure model to identify all exposure pathways.
 - (a) Information about the facilities operations, the source of chemicals of concern, current and expected site conditions and/or land use, proximity to receptors, current and expected use of ground water, and human receptors is necessary to develop the model.
 - (b) Potential exposure pathways to be considered for evaluation based on the site conceptual model shall include: air inhalation, ground water ingestion, surficial soil ingestion, dermal contact, and subsurface soil leaching to ground water.
 - (c) A summary of all complete exposure pathways at a site shall be completed for current conditions and for reasonably anticipated future use if different from the current use.
 - (2) Use the site conceptual exposure model developed in (1) to identify the data required to quantify the exposure by estimating the dose for all complete pathways. In Tier 1, risk-based screening levels for dermal contact, soil ingestion, and vapor inhalation pathways are based on a Carcinogenic Risk Limit of 10^{-6} and a Hazard Index of ≥ 1 for non-carcinogens unless a different risk level for a specific chemical of concern has been established by the Department. Risk-based screening levels for the soil leaching to ground water pathway shall be based on leaching models approved by the Department. Risk-based screening levels for ground water ingestion shall be based on maximum contaminant levels or other health based criteria for chemicals of concern without established maximum contaminant levels. For complete pathways other than the soil leaching to ground water and ground-water ingestion, risk-based screening levels shall be calculated based on the carcinogenic risk limit and the hazard quotient values stated in (2) above, published toxicity data and published reasonable maximum exposure values. The exposure factors used in the calculations shall be based on reasonable maximum exposure.
 - (3) Calculate the exposure for all identified complete pathways. The risk-based screening levels established by the Department for the chemicals of concern must be met at the exposure point(s). In Tier 1, the exposure point(s) and point(s) of compliance shall be located within the source area of the release or the area containing the highest concentrations of the chemicals of concern.
- c. Representative concentrations of chemicals of concern in affected media are determined by the following:
- (1) For ground water: the maximum concentrations of chemical of concerns obtained from last sampling event.
 - (2) For soil: the maximum concentrations of chemicals of concern obtained in the last sampling event for the ingestion, inhalation, and dermal contact pathway; and the average chemical of concern concentrations in the source area for the soil leaching to ground water pathway. To determine representative chemical of concern concentrations in the soil to be used in a leachability model, for each chemical of concern, the three soil samples with the highest non-zero concentration of chemicals of concern shall be averaged.
 - (3) For vapor: the maximum concentrations of chemicals of concern obtained in last sampling event.

d. If the concentrations of the chemical of concern at representative sample locations are below the Risk-Based Screening Levels, further assessment or cleanup may not be necessary, upon Department approval.

e. If the representative concentrations of chemical(s) of concern in the affected media are above the risk-based screening levels, the UST owner or operator shall conduct one or more of the following: interim remedial action; remedial action using the risk-based screening levels as target levels, as approved by the Department; other Department approved actions necessary to reduce risk; or further Tier evaluation. Further tier evaluation is warranted if: the site-specific target levels developed under further tier evaluation will be significantly different than the Tier 1 risk-based screening levels, the cost of remedial action to risk-based screening levels will likely be greater than further tier evaluation and subsequent remedial action, or the approach or assumptions, used to derive the current tier's goals are not appropriate for conditions at the site.

f. If a Tier 2 assessment is warranted, the UST owner or operator shall perform a Tier 2 assessment in accordance with this regulation and applicable Department criteria. Additional site assessment for a Tier 2 evaluation may include, but is not limited to: determination of site-specific hydrogeologic conditions; determination of horizontal and vertical extent of chemicals of concern relative to the Risk-Based Screening Levels, as appropriate; determination of changes in concentrations of chemicals of concern over time; determination of concentrations of chemicals of concern measured at exposure points; and, fate and transport evaluation to predict the attenuation of the chemicals of concern away from the source area.

g. The UST owner or operator shall use the data collected as described in (f) to evaluate the risk presented by the release using the following Tier 2 evaluation:

(1) Establish the exposure point. The most likely point of exposure closest to the source area shall be established as the exposure point for each complete pathway identified.

(2) For the ground-water ingestion pathway, the exposure point shall be established based on the current and reasonably anticipated future use of the ground water.

(a) If the ground water at a site is a current source of drinking water, or is reasonably anticipated to be utilized, the exposure point shall be established in the source area of the release or the area with the highest concentrations of chemicals of concern.

(b) If the ground water at a site is not currently used as a source of drinking water, or is not reasonably anticipated to be utilized, the exposure point shall be located hydraulically upgradient of the nearest receptor or the first ground water hydraulically downgradient of the site reasonably anticipated to be utilized.

(c) If the site is located within a designated Wellhead Protection Area, the exposure point(s) shall be established to prevent concentrations of chemical(s) of concern from exceeding maximum contaminant levels in the drinking water well.

(3) Establish a site-specific target level for each chemical of concern identified at the site which exceeds its risk-based screening level. A site-specific target level shall be established for each complete pathway identified that calculates an acceptable source area concentration so that risk-based screening levels are not exceeded at the point(s) of exposure.

(a) For the ground-water exposure pathway, the reduction of chemicals of concern in the saturated zone shall be estimated using either empirical data or models approved by the Department and implemented with site-specific data. Empirical data can be used to estimate the overall concentration reduction factor of the chemicals of concern in the relevant media from the source to the exposure point. Models can also be used to estimate the fate and transport of the chemicals of concern away from the source area.

(b) For the soil leaching to ground water pathway, the site-specific target level for each chemical of concern in soil shall be calculated using leachability models approved by the Department.

(c) Site-specific target levels for the dermal contact, soil ingestion, and vapor inhalation pathways shall be based on a Carcinogenic Risk Limit of 10^6 and a Hazard Index of ≥ 1 for non-carcinogens to be applied at the exposure point unless a different risk level for a specific chemical of concern has been established by the Department. Department approved less

conservative exposure factors may be used in the calculations for commercial and industrial scenarios. Site-specific exposure factors or most likely or average exposure factors may be used, as appropriate.

(4) Establish the point(s) of compliance. The point(s) of compliance shall be established hydraulically downgradient of the source area and hydraulically upgradient of an exposure point. At least one point of compliance must be located directly downgradient of the source area between the source area and the exposure point for each complete pathway. A minimum of one year travel time for the chemicals of concern from the point of compliance to the exposure point shall be established where possible. Additional point(s) of compliance are necessary where complex hydrogeologic conditions exist that may control chemical of concern migration.

h. If the concentrations of the chemicals of concern are below their site-specific target levels, the UST owner or operator shall submit a corrective action plan proposing a monitoring program to verify intrinsic remediation.

i. If representative concentrations of chemical(s) of concern in the affected media are above the site-specific target levels, the UST owner or operator shall conduct one or more of the following: interim remedial action; remedial action using the site-specific target levels, as approved by the Department; other Department approved actions necessary to reduce risk; or further Tier evaluation. Further tier evaluation is warranted if: the site-specific target levels developed under further tier evaluation will be significantly different than the Tier 2 site-specific target levels; the cost of remedial action to site-specific target levels will likely be greater than further tier evaluation and subsequent remedial action; or the approach or assumptions, used to derive the current tier's goals are not appropriate for conditions at the site.

j. If further Tier evaluation is warranted, the UST owner or operator shall perform a Tier 3 assessment to collect additional appropriate site-specific data to evaluate the risk presented by the release for a Tier 3 evaluation.

k. Based on the results of the Tier 3 evaluation, the owner or operator shall perform the appropriate action as approved by the Department based on the following:

(1) If the concentrations of the chemicals of concern are below the site-specific target levels, the UST owner or operator shall develop a corrective action plan proposing a monitoring program to verify intrinsic remediation.

(2) If the concentrations of the chemicals of concern are above the site-specific target levels, the UST owner or operator shall develop a corrective action plan which shall include active cleanup which may include intrinsic remediation as a component.

3. Corrective Action.

a. The UST owner or operator shall develop and implement a Department approved corrective action plan for each release to achieve risk-based screening levels or site-specific target levels established under the risk-based corrective action procedures. The corrective action plan shall include a schedule for implementation and for achieving risk-based screening levels or site-specific target levels. The corrective action plan must be developed and implemented in accordance with R.61-92 including procedures for Department approval and public notice. Any selected corrective action alternative funded by the SUPERB Account shall be a reasonable, cost-effective response for soil and/or ground-water contamination. In evaluating the cost effectiveness of proposed action, the UST owner or operator shall take into account the total short and long-term costs of such action, including the costs of operation and maintenance for the entire period during which such activities will be required.

b. The UST owner or operator and the Department shall encourage the use of innovative treatment technologies, where appropriate.

c. The Department shall require monitoring, evaluation, and reporting of corrective actions to evaluate whether the corrective action is efficient and cost effective.

d. UST owners or operators shall implement modifications to the corrective action, as required by the Department, to increase efficiency and cost effectiveness.

e. Once the Department agrees that monitoring data supports the conclusion that: the risk-based screening levels or site-specific target levels have been met; the chemicals of concern have

reached equilibrium or are not moving at a significant rate; concentrations of chemicals of concern are not increasing, no unacceptable risk to human health, safety, or the environment exists, and that concentrations of chemicals of concern will not exceed risk-based screening levels at the exposure point or receptor, the Department may issue a decision that further site rehabilitation is not necessary. These shall be conditional no further action decisions based on site-specific conditions and the current or reasonably anticipated future use of the site. The assumptions and conditions shall be outlined in writing. The Department shall maintain a registry of releases having conditional no further action decisions.

f. The Department approval of a corrective action plan or issuance of a conditional decision that further site rehabilitation is not necessary shall be considered an order of the Department enforceable pursuant to the 1976 Code Section 44-2-140. The UST owner or operator shall not undertake any actions that result in an increase in risk of exposure to the chemicals of concern including modification of the current or reasonably anticipated future use of the site without Department approval. The SUPERB Account shall not be responsible for funding further site rehabilitation as a result of an increase in risk under these conditions unless a variance to this provision is granted by the Department.

g. The Underground Storage Tank Program shall coordinate, on behalf of the owner or operator, all Department permits associated with implementation of a corrective action plan.

4. Variances. The Department may issue a variance to this Section, when, in its opinion, the UST owner or operator has demonstrated that an equivalent degree of protection will be provided to human health and the environment. Any variance granted or denied by the Department shall be in writing and shall contain a brief statement of the reasons for the approval or denial.

SECTION III. SUPERB Fund Requirements.

1. Site Rehabilitation Application.

a. A UST owner or operator requesting monies from the SUPERB Fund shall submit to the Department a written application on a form provided by the Department. The written application shall include certification that:

- (1) The chemicals of concern resulted from a release from a UST, including supporting documentation.
- (2) Site rehabilitation is necessary.
- (3) The USTs at the site have been registered in compliance with applicable UST laws and regulations.
- (4) The UST registration fees have been paid.

b. The Department shall accept certification that the site is in need of rehabilitation if the certification is provided jointly by the UST owner or operator and a South Carolina registered professional geologist or engineer, and if reasonably supported by geotechnical data and information documenting the site investigation and assessment activities performed.

c. The application shall also include:

- (1) a description of all abatement actions taken in response to the release pursuant to Regulation 61-92, and
- (2) a notarized statement confirming the existence or absence of environmental liability insurance for the site that covers site rehabilitation activities in response to a UST release.

d. For denied applications, the Department shall provide written notice of its findings to the applicant, including detailed reasons for denial. The Department shall deny application for reasons including, but not limited to, the following:

- (1) where the application is incomplete;
- (2) where, in the opinion of the Department, the application is not reasonably supported by geotechnical data;
- (3) where, in the opinion of the Department, the available information documents that site rehabilitation is not appropriate.

e. For approved applications, the Department shall respond in writing confirming the relative priority of the site as described in this section and provide general directives.

2. The Department shall provide access to the SUPERB Fund shall based on the priority classification system.

3. General Requirements.

a. UST owners or operators or site rehabilitation contractors may not propose or invoice costs to the SUPERB fund above reasonable, usual and customary costs.

b. Reimbursement for site rehabilitation activities shall in no event exceed the actual costs incurred by the UST owner or operator.

c. The Department shall not process incomplete invoices or invoices which are not supported by site rehabilitation reports and/or technical data.

d. The Department may withhold taking action on an application for monies during pendency of an enforcement action by the state or federal government related to the UST or a release from the UST.

e. The Department may deny or reduce payment for reported costs for failure by the UST owner or operator or site rehabilitation contractor to substantially comply with applicable statutory or regulatory requirements, including the provisions of this regulation, the SUPERB Act, or the Underground Storage Tank Control Regulations.

f. The Department may conduct an audit to assure compliance with this regulation. Audits will include, but not be limited to, determining that:

(1) funds were expended in a manner consistent with that reported to the Department;

(2) all necessary information needed to determine that costs represented were actually incurred.

g. Any funds paid to UST owner or operator or site rehabilitation contractor which are disallowed in accordance with this regulation shall be considered a debt to the fund. In addition to requiring repayment, the Department shall have the authority to offset any incorrect payment against other invoices for that or other releases for the same person. If no ability to offset exists and a debt is not paid within ninety (90) days after demand, the State may take other actions permitted by law and this regulation.

h. Any proceeds gained from the sale or salvage of site rehabilitation equipment purchased with SUPERB funds shall be returned to the SUPERB fund.

i. The Department reserves the right to arrange to have any equipment appraised for determination of fair market or salvage value. The cost of the appraisal shall be paid from the SUPERB Account.

j. The Department shall develop criteria for the following:

(1) the minimum supporting technical and financial documentation for proposed or performed site rehabilitation activities;

(2) a maximum frequency of billing;

(3) a minimum invoice amount unless it is the final invoice for an approved site rehabilitation activity;

(4) retainer amounts;

(5) requirements for processing final invoices; and

(6) procedures for processing technical and financial changes associated with administration of the fund.

k. In developing and periodically updating the performance standards and criteria, the department shall make public notice and receive and consider public comments.

l. A UST owner or operator or site rehabilitation contractor shall provide proposed costs and documentation of incurred costs for site rehabilitation activities in accordance with applicable Department performance standards and criteria and on forms provided by the Department.

4. Site Rehabilitation Payments.

a. The Department shall establish and periodically update reasonable, usual and customary costs and activities based on the Department's experience and industry-typical costs after sufficient public notice and consideration of public comments. These may include, but not be limited to the following:

- (1) costs for site rehabilitation activities as authorized in this section;
- (2) personnel and equipment categories;
- (3) definitions, payment rates, and duration of activities, where appropriate, for categories that are commonly used in site rehabilitation activities; and
- (4) the requirements for competitive pricing for site rehabilitation activities and equipment, where necessary;

b. Reasonable, usual and customary costs, established in paragraph (a), above, are payable from the SUPERB fund for activities including, but not limited to, the following:

- (1) recovery, storage, sampling, treatment, and proper disposal of released petroleum, petroleum products and/or petroleum/water mixtures;
- (2) storage, sampling (to determine the method of disposal), and proper disposal of soils containing chemicals of concern;
- (3) boreholes with associated soil sampling and chemical analysis as required by the Department to assess the extent of chemicals of concern in the soil;
- (4) boreholes with associated ground-water sampling and chemical analyses, installation and sampling of temporary and permanent monitoring wells to assess the extent and severity of chemicals of concern in the ground-water;
- (5) installation and sampling of recovery wells;
- (6) hydrogeologic evaluation;
- (7) preparation and submittal of assessment plans, assessment reports, corrective action plans, and mixing zone applications;
- (8) routine ground-water monitoring and reporting as approved by the Department;
- (9) construction, operation, and maintenance of a treatment system specifically constructed for site rehabilitation, or;
- (10) treatment, associated sampling, and proper disposal of petroleum or petroleum product contaminated ground water as required;
- (11) plans for termination of site rehabilitation activities.

c. Activities that are not payable from the SUPERB fund include, but are not limited to, the following:

- (1) UST system replacement, UST system removal, UST system upgrade, UST system testing, UST closure and other assessments to determine if a release has occurred;
- (2) actions taken to stop the UST from leaking;
- (3) the investigation and cleanup of any release other than a release of petroleum or petroleum products from a UST;
- (4) loss of product;
- (5) payment of liability claims against the owners or operators of a UST;
- (6) legal fees;
- (7) loss of revenue;
- (8) loss of trees, shrubs, or signs;
- (9) overnight or express mail costs for plans, reports, and assorted paper documentation;
- (10) costs related to unnecessary environmental permits;
- (11) costs incurred to prepare and implement plans and reports that are not technically warranted or do not substantially address the Department's performance standards;
- (12) costs incurred in general consultation with the Department or the UST owner or operator regarding plan or cost preparation;

(13) costs associated with the replacement of capital expense items which have been lost, stolen, or damaged by acts of vandalism and/or natural disasters;

(14) handling fees, markups, commissions, percentages or other similar considerations on any activity furnished or completed by any entity which has a familial or financial relationship and/or related interest to the property owner, UST owner or operator, or site rehabilitation contractor.

(15) costs incurred for unnecessary or inappropriate site rehabilitation activities.

5. SUPERB Eligibility Appeals. A UST owner or operator shall be granted a hearing by an independent hearing officer to appeal a denial of SUPERB eligibility, if requested in writing within 15 days of receipt of the letter denying SUPERB eligibility.

6. Invoice Review.

a. A UST owner or operator or a site rehabilitation contractor may seek a review of a staff decision by the UST Program Director regarding an invoice for which the Department denies payment. Requests for review shall be submitted to the Department within thirty (30) days of the date of receipt of Department correspondence that denies the invoice. Requests for reviews shall be in accordance with a Department established format.

b. The UST Program Director shall review all requests for review described in (a) above and provide a written determination thereto within forty-five (45) days.

7. Cost Recovery.

a. When the Department is required to perform site rehabilitation through its own personnel or contractors, the Department shall diligently seek cost recovery of any cost incurred as authorized by the SUPERB Act.

b. For sites that do not qualify for SUPERB eligibility, but for which SUPERB funds have been expended by the Department, the Department shall recover all expenditures from the owner or operator, as appropriate. This may include, but not be limited to:

(1) all materials and labor;

(2) all contractual costs; and

(3) all actual administrative costs incurred by the Department to conduct site rehabilitation activities and to secure cost recovery.

c. For sites that qualify for SUPERB monies but where the owner or operator is unable or unwilling to perform site rehabilitation, the Department may recover from the SUPERB Account. For site rehabilitation activities or costs not covered by the SUPERB Act, the Department may recover, as appropriate, from the owner or operator:

(1) all materials and labor;

(2) all contractual costs; and

(3) all actual administrative costs incurred by the Department to conduct site rehabilitation activities and to secure cost recovery.

d. Cost recovery shall be in addition to any fines imposed by the Department pursuant to the SUPERB Act.

SECTION IV. Certification of Site Rehabilitation Contractors.

A. Certification Requirements.

1. Applicability. This section applies to contractors or subcontractors who directly or indirectly participate in site rehabilitation whether or not SUPERB funding has been or will be sought.

2. Within 120 days of regulation promulgation, site rehabilitation contractors who perform on-site work as a primary contractor under the SUPERB Act must be certified under this regulation. The Department will certify those site rehabilitation contractors that demonstrate sufficient experience and knowledge in performing site rehabilitation activities related to releases of regulated substances from underground storage tanks. Site rehabilitation contractors must maintain certification to perform site rehabilitation actions. Contractors providing off-site support services (e.g., analytical laboratories) are not required to be certified under this regulation. Class I sub-contractors are also required to be certified under this regulation. The primary contractor maintains responsibility for the quality of work performed by individuals or companies sub-contracted to them.

3. Classes of Certification. Site rehabilitation contractors shall be certified in one or both of the following classes:

a. Class I. Contractors performing work involving the collection and interpretation of investigative data; the evaluation of risk; and/or the design and implementation of corrective action plans.

b. Class II. Contractors performing work involving routine investigative activities (e.g., soil or ground water sampling, well installation, aquifer testing) where said activities do not require interpretation of the data and are performed in accordance with established regulatory or industry standards.

4. Qualifications. An applicant, which may be an individual or a company, shall be certified as a site rehabilitation contractor upon satisfaction of the requirements in 4.a or 4.b, as appropriate. For a company to become certified, a full-time permanent employee of that company must satisfy the requirements in 4.a or 4.b, as appropriate.

a. Applicants for a Class I certification must satisfy the following:

(1) registration as a Professional Engineer or Geologist in South Carolina including three years applicable experience in performing site rehabilitation activities related to releases of regulated substances from underground storage tanks.

b. Applicants for a Class II certification must satisfy the following:

(1) a minimum of three years applicable experience in performing site rehabilitation activities related to releases of regulated substances from underground storage tanks; and,

(2) any necessary South Carolina certification and/or license (e.g., Well Driller).

c. Applicants for either class shall maintain liability insurance coverage of the types and in the amounts described in the table below and shall provide certification to the Department of such coverage upon meeting the requirements of 4.a and/or 4.b. of this Section, and yearly thereafter.

Type of Policy	Limits of Liability
General Liability	\$500,000 per occurrence \$1,000,000 aggregate
Professional Liability	\$500,000 per occurrence \$1,000,000 aggregate
Pollution/Property Damage	\$300,000

The contractor shall be required to indemnify the property owner, underground storage tank owner/operator and the State of South Carolina from and against all claims, damages, losses and expenses arising out of or resulting from activity conducted by the contractor, its agents, employees or subcontractors.

B. Public Notice and Certificate Issuance.

1. For new applications, a list of those contractors requesting certification shall be placed on public notice in the State Register each month and shall be open for comment for a period of thirty (30) days.

2. The Department shall issue a Certificate to any applicant who has satisfactorily met all the requirements of these rules. Certificates shall show the full name of the contractor, the date of certification, give a certification number, and be signed by a Department representative.

3. The Department shall publish a roster showing the names and places of business of all certified site rehabilitation contractors. Copies of this roster shall be provided to the public on request.

4. Each applicant for, or holder of, a certificate shall notify the Department at its office within thirty (30) days of any changes of address or telephone number.

5. Each applicant for, or holder of, a certificate shall notify the Department at its office within thirty (30) days of any changes that may affect qualification pursuant to Section IV.A.4 of this regulation.

6. Within thirty (30) days of receipt of information that may affect certification of an applicant for, or holder of, a certificate, the Department shall evaluate the current qualifications of the applicant or holder and make a determination as to certification per the requirements of this regulation.

C. General Requirements.

1. All plans, reports, invoices and other documents relating to site rehabilitation activities which have been prepared or approved by a certified contractor shall be signed by the certified contractor and bear his certification number.

2. The certification of a site rehabilitation contractor shall in no way establish liability or responsibility on the part of the Department or the State of South Carolina in regards to the services provided by the contractor or circumstances which may occur as a result of such services.

3. Except as permitted by this regulation, a UST owner or operator shall not knowingly allow the initiation, implementation or completion of site rehabilitation with a decertified or suspended contractor. A UST owner or operator may rely upon the certification of a contractor that it or its affiliates are not decertified or suspended from site rehabilitation, unless it knows that the certification is erroneous.

D. Use of Owner/Operator Personnel.

1. The use of an UST owner or operator's personnel and equipment in performing site rehabilitation activities must be approved by the Department.

a. Prior to commencing any site rehabilitation activities, the owner or operator shall make a demonstration to the satisfaction of the Department with respect to the capability of the owner or operator's personnel to perform the work in a manner which shall comply with § 44-2-50 of the SUPERB Act. Particular consideration shall be given to the background and experience of the personnel who will perform the work and their knowledge of the technical considerations necessary to perform the site rehabilitation; and

b. An owner or operator or his personnel who performs site rehabilitation activities is required to comply with the provisions of Section IV.A. of this regulation.

c. An owner or operator or his personnel desiring to perform site rehabilitation activities must satisfy the liability insurance requirements of IV.A.4.c. above, including indemnification of other property owners.

2. If the Department determines that an owner or operator cannot perform site rehabilitation in compliance with Section II.A of this regulation, the Department may require the owner or operator to obtain the services of a certified site rehabilitation contractor.

SECTION V. Suspension, Decertification, and Appeals.

A. Suspension and Decertification.

1. Effect of Action. Contractors who are suspended or decertified shall be excluded from performing site rehabilitation throughout the state for the period of their suspension or decertification. No UST owner or operator shall knowingly have any suspended or decertified contractors, including affiliates, perform site rehabilitation during such period or enter any agreement that would stipulate the suspended or decertified contractor perform site rehabilitation during such periods.

2. Suspension. Summary shall be for a temporary period pending the completion of an investigation or ensuing decertification or legal proceedings. The Department may impose summary suspension in egregious cases posing imminent harm to the environment or the public.

3. Decertification.

a. The Department may decertify a contractor performing or seeking to perform site rehabilitation in South Carolina when:

(1) the contractor fails to maintain qualification pursuant to Section IV.A.4;

(2) the contractor has had administrative or civil enforcement action under the provisions of this chapter taken against him within the last three years;

(3) the contractor has demonstrated repeated noncompliance with financial criteria established by the Department, to include, but not be limited to:

(a) submitting bills to the Department that are inconsistent with regulations, established criteria and/or general accounting principles;

(b) submitting duplicate or fraudulent bills to the Department;

(c) submitting bills to the Department for work not yet performed or equipment and materials not yet delivered or received; and

(d) failure to pay cost recovery requests from the Department (including disallowed costs and overpayment), provided the debt is uncontested by the debtor or if contested provided that the debtor's legal and administrative remedies have been exhausted.

(4) where a person has demonstrated repeated inability to perform site rehabilitation in accordance with performance standards and criteria developed by the Department and accepted industry standards to include, but not be limited to:

(a) deliberate failure to perform according to the specifications or within the schedule approved by the Department;

(b) a record of failure to perform or of unsatisfactory performance according to the terms of one or more site rehabilitation work plans; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the person shall not be considered a basis for decertification;

(5) any other cause that the Department determines to be so serious and compelling as to affect the ability of a contractor or subcontractor to perform site rehabilitation activities in a satisfactory manner, including decertification or similar action by another governmental entity.

4. Investigation. Information of a cause for decertification from any source shall be promptly reported to the Department by UST owners, operators, site rehabilitation contractors, or other persons. The Department will promptly investigate, and may issue a notice of proposed decertification.

5. Notice of Proposed Decertification. A decertification notice shall be issued to the contractor advising:

a. That decertification is being considered;

b. Of the reasons for the proposed decertification in terms sufficient to put the respondent on notice of the conduct or site rehabilitation activity upon which it is based;

c. Of the potential effect of decertification.

6. Opportunity For Review of Proposed Decertification. Within fifteen (15) days after receipt of the notice of proposed decertification, the contractor may submit in writing information and argument in opposition to the proposed decertification and notify the Department if a conference is desired. If such request is made, the contractor shall be afforded an opportunity to appear with a representative, and submit documentary evidence and other appropriate information.

7. Notice of Decertification.

a. The decision shall be made within forty-five (45) days after receipt of any information and argument submitted by the respondent, unless the Department extends the period for good cause.

b. The notice of the Department's decision shall specify the reason(s) for decertification; state the period of decertification; and advise that the decertification is effective for all UST site rehabilitation activities in the State except as provided for by this section.

c. If the Department decides not to impose decertification, the contractor shall be given prompt notice of that decision. A decision not to impose decertification shall be without prejudice to a subsequent imposition of decertification by the Department.

d. When in the best interest of the State or the Department, the Department may, at any time, settle a decertification or suspension action.

8. Period of Decertification.

a. Decertification shall be for a period commensurate with the seriousness of the cause(s). If a suspension precedes a decertification, the suspension period shall be considered in determining the decertification period.

b. Decertification should generally not exceed three (3) years. Where circumstances warrant, a longer period of decertification may be imposed.

c. The Department may extend an existing decertification for an additional period, if the Department determines that an extension is necessary to protect the public interest. However, a decertification may not be extended solely on the basis of the facts and circumstances upon which the initial decertification action was based.

9. Reversal of Decertification. The Department may reverse a decertification decision for reasons including, but not limited to:

- a. newly discovered material evidence;
- b. reversal of the conviction or civil judgement upon which the decertification was based;
- c. bona fide change in ownership or management;
- d. elimination of other causes for which the decertification was imposed; or
- e. other reasons the Department deems appropriate.

10. Exceptions.

a. The Department may grant an exception permitting a decertified or suspended contractor to participate in a particular site rehabilitation activity upon prior notice and subsequent to a written determination by the Department stating the reason(s) for deviating from the requirements of this regulation. Exceptions shall be granted on a case by case basis.

b. UST owners or operators shall not renew or extend agreements to allow decertified or suspended contractors from continuing with site rehabilitation, except as provided in (a) above.

11. Failure to Adhere to Restrictions. Except as permitted by this regulation, a UST owner or operator shall not knowingly allow the initiation, implementation or completion of site rehabilitation with a decertified or suspended contractor. A UST owner or operator may rely upon the certification of a contractor that it or its affiliates are not decertified or suspended from site rehabilitation, unless it knows that the certification is erroneous.

B. Appeals.

1. Any person that has been suspended or decertified shall have the right to appeal in accordance with the Administrative Procedures Act. Appeals shall be heard by an independent hearing officer.

61–101. Water Quality Certification.

(Statutory Authority: 1976 Code §§ 48–1–30, 48–1–50, 48–6–10 et seq., and 2023 Act No. 60, effective July 1, 2024)

A. GENERAL

1. This regulation establishes procedures and policies for implementing State water quality certification requirements of Section 401 of the Clean Water Act, 33 U.S.C. Section 1341.

2. Any applicant for a Federal license or permit to conduct any activity which during construction or operation may result in any discharge to navigable waters is required by Federal law to first obtain a certification from the Department. Potential applicants are encouraged to contact the Department prior to submitting an application. Federal law provides that no Federal license or permit is to be granted until such certification is obtained. Federal permits or licenses for which certification is required as determined by the Federal agency include but are not necessarily limited to:

(a) individual or general Federal permits issued pursuant to Section 404 of the Clean Water Act, 33 U.S.C. Section 1344.

(b) Federal permits issued pursuant to Sections 9 and 10 of the Federal River and Harbor Act, 33 U.S.C. Sections 401 and 403.

(c) permits or licenses issued by the Federal Energy Regulatory Commission, 16 U.S.C. Section 1791, et seq.

3. The Department may issue, deny, or revoke general certifications for categories of activities or for activities specified in Federal nationwide or general dredge and fill permits pursuant to Federal law or regulations. Such general certifications are subject to the same process as individual certifications.

4. Any certification issued by the Department shall specify where appropriate that any such discharge will comply with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Federal Clean Water Act. If there is not an applicable effluent limit or standard under such sections, the Department will so certify. The Department shall also certify that there is reasonable assurance that the activity will be conducted in a manner which will not violate applicable water quality standards regulations. No certification will be issued if such assurance is not provided.

5. Any certification issued by the Department shall also set forth any limitations, conditions, or monitoring requirements necessary to assure maintenance of classified or existing water uses and standards and compliance with other requirements of these regulations or other appropriate requirements of State law.

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

7. For Federal permits that require both a water quality certification and a coastal zone consistency certification, the coastal zone consistency certification determination shall be issued as a component of, and concurrently with, the water quality certification, according to the administrative procedures set forth in this regulation, and in accordance with the management policies of the S.C. Coastal Management Program and applicable laws and regulations. In these instances, the water quality certification will serve also as the coastal zone consistency certification.

8. The Department will not issue a separate 401 water quality certification for an activity which requires a direct permit for alteration of the critical area of the coastal zone pursuant to applicable regulations governing issuance of permits for alteration of the critical area of the coastal zone. The Department will process permit applications pursuant to applicable regulations governing issuance of permits for alteration of the critical area of the coastal zone with coordination and input from appropriate staff regarding water quality impacts. The direct permit will serve as the 401 water quality certification for an associated Federal permit.

9. If an activity also requires a permit for construction in State navigable waters pursuant to applicable laws and regulations, the review for the water quality certification will consider issues of that permit and the Department will not issue a separate permit for construction in State navigable waters. The certification will serve as the permit.

B. DEFINITIONS

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

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

2. "Department" means the Department of Environmental Services.

C. APPLICATIONS

1. Any applicant for certification needed for a Federal license or permit must present a complete application to the Department in a manner specified by the Department. Federal application forms or forms provided by the Department will be accepted. Upon receipt of an application, the Department may require additional information to make the application complete. The Department will accept a public notice issued by the Federal permitting or licensing agency as application for certification if it contains sufficient information. Generally, the date of receipt of the public notice will

be considered the date of application for certification. As a minimum the application must contain the following information:

- (a) the name, address, phone numbers, principal place of business of the applicant and, if applicable, the name and address of the agent for the applicant.
- (b) a complete description of the proposed permitted activity, including the location, affected waterbody(s), purpose, and intent of the project; maps, drawings, and plans sufficient for review purposes (detailed engineering plans are not required).
- (c) a description of all proposed activities reasonably associated with the proposed permitted project either directly or indirectly, including planned or proposed future development that relate to water quality considerations.
- (d) a description of the composition, source, and quantity of any material to be dredged or used as fill and a description of the area to be impacted, including the area of fill in acres.
- (e) the method of dredging or filling and specific plans for disposal and control of dredge spoils.
- (f) the names and addresses of adjacent property owners.

2. If the Department does not request additional information within ten (10) days of receipt of the application or joint public notice, the application will be deemed complete for processing; however, additional information may still be requested of the applicant within sixty (60) days of receipt of the application.

3. The Department may require the applicant to provide water quality monitoring data, water quality modelling results, or other environmental assessment related to factors in Article F.3 prior to accepting or processing the application and assessing the impacts of the proposed activity.

4. When the Department requests additional information it will specify a time for submittal of such information. If the information is not timely submitted and is necessary for reaching a certification decision, certification will be denied without prejudice or processing will be suspended upon notification to the applicant by the Department. Any subsequent resubmittal will be considered a new application.

D. PUBLIC NOTICE

1. Public notice is required of all applications for certification of Federal licenses or permits. When consistent with procedures herein and practical, joint public notice procedures with Federal or State agencies will be used to facilitate processing.

2. The public notice of application shall provide a reasonable period of time, normally thirty (30) days from the date of notice within which interested persons may submit their views and information concerning the certification application to the Department.

3. If the Department determines that an application is of a type that is routinely granted and the impacts are minor, the Department may reduce the notice period to fifteen (15) days. If the Department determines that an application involves a major activity, the notice period may be extended up to sixty (60) days from the date of the initial public notice.

4. Public notice of the application shall be by each of the following methods:

(a) by the Department's mailing a copy of the Notice of Application to:

- 1. the applicant.
- 2. any agency with jurisdiction over or interest in the activity or disposal site.
- 3. owners or residents of property adjoining the area of the proposed activity as identified in the application.
- 4. newspapers of local and statewide interest in the area.
- 5. any adjacent State agency of North Carolina or Georgia with jurisdiction over or interest in common waters affected by the proposed activity.
- 6. anyone who has specifically requested copies of public notices. The list of such person will be updated periodically and persons deleted who fail to respond to normal Department requests to identify continued interest. Nongovernmental interests out-of-state may be charged an annual fee of \$25.00 for notices.

(b) by publication by the applicant of the Notice of Application in a newspaper of local or general circulation reasonably expected to cover the area affected by the activity. Such publication by the applicant shall contain sufficient information for the reader to understand the location, nature, and extent of the proposed activity and a contact for further information. The applicant shall provide the Department with an affidavit of publication from the newspaper within fifteen (15) days of publication.

(c) the Department will coordinate with other regulatory agencies and develop joint procedures for publication of notices of applications where feasible to minimize duplication.

E. PUBLIC HEARING

1. Any person may request a public informational hearing during the initial comment period discussed in Article D.2. and D.4. above. Requests shall be in writing and shall state the nature of the issues to be raised at the hearing.

2. The Department shall hold a public informational hearing whenever twenty (20) or more individual written requests are received during the public comment period and which raise water quality and classified use issues. A hearing may also be held whenever the Department staff determines that it may be useful in reaching a decision on an application. Such hearing will be conducted by Department staff personnel.

3. All public hearings shall be reported verbatim. A copy of the transcript shall be made available for public inspection.

4. The public comment period on an application will automatically be extended to fifteen (15) days past the date of the hearing. Further extensions may be granted at the discretion of the hearing officer.

5. The Department will coordinate with other regulatory agencies and conduct joint public hearings where feasible.

F. SCOPE OF REVIEW FOR APPLICATION DECISIONS

1. The Department shall prepare a written assessment on each proposed activity requiring a Federal license or permit. This assessment shall address the water quality impacts of the project and will make conclusions concerning compliance with water quality standards, protection of classified uses, and related water quality impacts. Such assessment shall be available to the applicant and to the public upon request.

2. A certification shall be issued if the applicant has demonstrated that the project is consistent with the provisions of these regulations; the State Water Quality Standards, R. 61-68; and the Federal Clean Water Act, 33 U.S.C. 1341, and regulations promulgated thereunder by the U.S. Environmental Protection Agency.

3. In assessing the water quality impacts of the project, the Department will address and consider the following factors:

- (a) whether the activity is water dependent and the intended purpose of the activity;
- (b) whether there are feasible alternatives to the activity;
- (c) all potential water quality impacts of the project, both direct and indirect, over the life of the project including:
 - (1) impact on existing and classified water uses;
 - (2) physical, chemical, and biological impacts, including cumulative impacts;
 - (3) the effect on circulation patterns and water movement;
 - (4) the cumulative impacts of the proposed activity and reasonably foreseeable similar activities of the applicant and others.

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

- (a) public boat ramps to enhance recreational use of waters.
- (b) filling necessary for public highways or bridges.
- (c) filling or disturbances to facilitate construction of electric transmission lines or other public utility crossings, including those of rural electric cooperatives.
- (d) dredging and filling related to maintenance of Federal or State navigational channels and ports.
- (e) activities utilizing Best Management Practices (BMP) which are part of an established ongoing farming, ranching, aquaculture, or silviculture operation.
- (f) public water supplies.

5. Certification will be denied if:

- (a) the proposed activity permanently alters the aquatic ecosystem in the vicinity of the project such that its functions and values are eliminated or impaired;
- (b) there is a feasible alternative to the activity, which reduces adverse consequences on water quality and classified uses;
- (c) the proposed activity adversely impacts waters containing State or Federally recognized rare, threatened, or endangered species;
- (d) the proposed activity adversely impacts special or unique habitats, such as National Wild and Scenic Rivers, National Estuarine Research Reserves, or National Ecological Preserves, or designated State Scenic Rivers;

6. Certification will not be issued unless the Department is assured appropriate and practical steps including stormwater management will be taken to minimize adverse impacts on water quality and the aquatic ecosystem.

7. After-the-fact certifications will be reviewed under the same standards as normal applications; however, the Department may require restoration and/or other actions as a condition of certification. The applicant in such cases shall have the burden of proving the original baseline conditions, and certification may be denied in the absence of such proof.

G. NOTICE OF DECISIONS AND APPEALS FOR CERTIFICATIONS FOR FEDERAL LICENSES OR PERMITS

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

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

2. Persons with legal standing to contest the certification shall have rights to appeal the decision.

3. A person desiring to appeal a determination must do so within thirty (30) days in accordance with S.C. Code of Laws Section 48-6-30. The request must set forth the manner in which the person requesting the hearing would be injured by issuance of the certification.

4. Upon timely request for a hearing, the matter shall be heard as a "contested case" under the South Carolina Administrative Procedures Act, and shall be processed according to law. Determinations of whether a person has legal standing to contest a determination shall be made in the course of the contested case proceeding.

5. Appeals of a certification which include coastal zone consistency certification will be heard according to the above procedures unless the appeal is based exclusively on a coastal zone management issue. In that case the appeal will be heard according to the procedures for appeals of coastal zone consistency certifications.

6. Appeals of a certification included in the direct permit for alteration of the critical area of the coastal zone will be heard as part of that permit appeal according to the procedures for appeals of direct permits for alteration of the critical area of the coastal zone.

H. ENFORCEMENT OF CERTIFICATION DECISIONS AND CONDITIONS

1. Any certification condition is intended to become a condition of the Federal or State license or permit as specified in Federal or State law.
2. Certification conditions which are included as conditions of such license or permit are subject to enforcement mechanisms available to the Federal or State agency issuing the license or permit. Other mechanisms under State law may also be used to correct or prevent adverse water quality impacts from construction or operation of activities for which certification has been issued.
3. The Department may conduct inspections for determining compliance with certification conditions.

HISTORY: Added by State Register Volume 14, Issue No. 2, eff February 23, 1990. Amended by State Register Volume 19, Issue No. 6, eff June 23, 1995; SCSR 49-5 Doc. No. 5333, eff May 23, 2025.

61-102. Transferred.

HISTORY: Former Regulation, titled *Standards for Licensing Birthing Centers for Deliveries by Midwives*, had the following history: Added by State Register Volume 15, Issue No. 5, eff May 24, 1991. Amended by State Register Volume 34, Issue No. 6, eff June 25, 2010. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-102.

61-103. Transferred.

HISTORY: Former Regulation, titled *Residential Treatment Facilities for Children and Adolescents*, had the following history: Added by State Register Volume 15, Issue No. 4, eff April 26, 1991. Amended by State Register Volume 40, Issue No. 6, Doc. No. 4596, eff June 24, 2016. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-103.

61-104. Hazardous Waste Management Location Standards.

(Statutory Authority: 1976 Code §§ 44-56-30 et seq., 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024)

I. Purpose and Scope:

A. This regulation creates State requirements for the location of hazardous waste treatment, storage, and disposal (TSD) facilities. Because the location of hazardous waste TSD facilities should be limited to those areas where there will be minimal impact on human health and the environment, all operating TSD facilities must demonstrate to the Department that their location complies with this regulation.

B. The scope of the regulation is limited to issues of public health and protection of the environment. The authority to institute land use planning and zoning is an option to be instituted by local governments in South Carolina. Although the S.C. Department of Environmental Services is often requested to deny permits to industries which propose activities near residential or other areas, such requests can only be considered by the Department when public health and the environment are at risk. Aesthetic considerations, nuisances such as incidental odors, noises, and lights, or competing economic interest are mainly regulated through zoning by local governments and are not addressed in this regulation.

II. Applicability:

A. This regulation shall apply to all applicants for permits as required by R.61-79 to treat, store, or dispose of hazardous waste; provided, however, it shall not apply to those applicants for permits for post-closure activities only. For those units permitted prior to the effective date of this regulation, demonstration of compliance with these location standards shall be deemed a condition of the permit. For units permitted prior to the effective date of this regulation, failure to submit a demonstration of compliance with these location standards within one hundred and eighty days of the effective date of this regulation shall be deemed to be a failure to meet the conditions of the permit.

B. [Blank]

C. Demonstration of compliance with this regulation must accompany the permit application required by R.61-79.270.10 unless the application is for a permit reissuance.

III. Definitions:

A. "Adjacent" to a wetland means bordering, contiguous, neighboring, or hydrologically interconnected via surface water or groundwater. Adjacent wetlands include, but are not limited to, those areas that are separated from other waters of the State by man-made dikes, berms, or barriers, natural river berms, and beach dunes. Areas hydrologically interconnected are considered to be those where a realistic potential exists for migration of a release or spill to an adjacent wetlands via surface water or groundwater.

B. "Appurtenance" means any ancillary equipment that is stationary to the unit and contains or transports hazardous waste.

C. "Areas of complex hydrogeology" typically include, but are not limited to, karst terrane; fractured rock formations (joints and faults; excludes healed fractures) irregularly stratified geologic deposits (e.g., certain fluvial, deltaic and barrier island deposits); mixed hydrogeologic regimes (e.g., sedimentary deposits overlying fractured crystalline bedrock); folded areas where flow paths may be contorted, and recharge zones where background water quality cannot be determined.

D. "Areas susceptible to mass movement" means those areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) where the movement of earth material at, beneath, adjacent, or in the immediate area of the unit, because of natural or man-made events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include, but are not limited to, landslides, avalanches, debris slides and flows, creep, solifluction, liquefaction, block sliding, rock fall, and slump.

E. "Braided" means a river system characterized by an intricate network of dividing and reuniting channels (frequently more than one) around a network of predominantly sand and gravel bars and islands, causing the river channels to follow a sinuous rather than straight course.

F. "Cave" means a naturally occurring cavity, recess, chamber, or series of chambers and galleries beneath the surface of the earth.

G. "Class GA groundwater" is defined in R.61-68 as those groundwaters that are characterized by either of the following factors: the groundwater is irreplaceable because no reasonable alternative source of drinking water is available to substantial populations, or the groundwater is ecologically vital because it provides the base flow for a particularly sensitive ecological system that, if polluted, would destroy a unique habitat.

H. "Coastal marine floodplain" means the area along any coast that has historically been inundated during times of flooding, but is otherwise above water, except for standing water such as in a marsh or pond.

I. "Displacement" means the relative movement of any two sides of a fault measured in any direction.

J. "Ephemeral" means a short-lived or transitory river or portion of a river that flows only in direct response to precipitation.

K. "Existing unit" means a unit which has received a hazardous waste permit by the effective date of this regulation or has met the requirements for interim status under R.61-79.270.70.

L. "Expansion or Expanding unit" means any increase in the capacity of an existing unit, as defined above, any change in the types of waste received by an existing unit, any increase in the quantities of waste received by an existing unit on a periodic basis, or the addition of a unit or units for the same activity as the existing unit.

M. "Fault" means a fracture or zone of fracturing in any material along which there has been an observable amount of displacement of the sides relative to one another and parallel to the fracture.

N. "Flow net" is a graph of flow lines and equipotential lines used in the study of groundwater flow that represents two-dimensional movement through porous media. Equivalent hydrogeologic models may be used in place of a flow net, subject to the approval of the Department.

O. "Fluvial floodplain" means the area along any river or stream that has historically been inundated during times of flooding, but is otherwise above water, except for standing water such as in a marsh, pond, or oxbow lake.

P. "Hazardous waste" means a hazardous waste as defined in R.61-79.261 of the South Carolina Hazardous Waste Management Regulations (SCHWMR).

Q. "Historical migration zone" means the area within which erosion of coastal marine, lacustrine or fluvial floodplains is predicted to occur within the next 25 years. The historical migration zone includes the following landforms: coastal marine, lacustrine, and braided or meandering fluvial systems; including ephemeral systems and local segments of other fluvial floodplains, such as canaliform systems that are locally braided, locally meandering, or ephemeral.

R. "Holocene" means the most recent geologic epoch within the Quaternary Period, from the end of the Pleistocene epoch to the present.

S. "Horizontal ground acceleration" is the change in velocity over time relative to horizontal movement of the earth's surface as measured at a particular point during an earthquake.

T. "Karst terrane" means areas where distinctive topography having characteristic surface and subterranean features is developed because of liquefaction of overburden or the dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terrane include but are not limited to sinkholes, closed depressions, sinking streams, caves, and blind valleys. Characteristic subsurface solution features may be evidenced by drilling rod drops and fluid loss during well drilling.

U. "Lacustrine floodplain" means the area along any lakeshore that has historically been inundated during times of flooding, but is otherwise above water, except for standing water such as in a marsh or pond.

V. "Land-based unit" means a unit which is used for the treatment, storage, or disposal of a hazardous waste and is subject to Section R.61-79.264 Subpart F including surface impoundments, landfills, waste piles, land treatment units. Units exempt from the Subpart F requirements under 264.90(b) and covered indoor waste piles in compliance with Section 264.250(c) shall be considered as non-land-based units.

W. "Locally" means a particular segment or the reach of a river which is characterized by the distance that encompasses several river bends or wave lengths, each being a minimum of eight or more channel widths.

X. "Meandering" means a sinuous river system characterized by a single main channel that is regionally characterized by a series of irregular "S" shaped curves.

Y. "Navigable waters" means those waters which are now navigable, or have been navigable at any time, or are capable of being rendered navigable by the removal of accidental obstructions, by rafts of lumber or timber or by small pleasure or sport fishing boats.

Z. "New unit" means a unit, other than an existing or expanding unit, as defined above, for which a permit decision will be made after the effective date of this regulation.

AA. "Non-land-based unit" means an incinerator, tank and its associated piping and underlying containment system, or container storage area, and other units which are used for the treatment, storage, or disposal of a hazardous waste and are not subject to Section R.61-79.264 Subpart F.

BB. "One hundred-year flood" means a flood discharge that has a one-percent chance of being equaled or exceeded in any given year.

CC. "One hundred-year floodplain" means any land area which is subject to a one percent or greater chance of flooding in any given year from any source.

DD. "Poor foundation conditions" means those areas where features exist which indicate that a natural or man-induced event may result in inadequate foundation support for the structural components of a unit.

EE. "Post-closure activities" means those regulated activities performed at a TSD unit after closure has been completed and approved by the Department.

FF. "Public drinking water supply" means water, whether bottled or piped, provided to the public for human consumption; provided that the public drinking water supply shall not include a drinking water system serving only a single private residence or dwelling (R.61-58).

GG. "Recharge area" for a particular saturated geologic unit is defined as areas where water enters the geologic unit through downward migration. Principal examples include: outcrop areas of a

particular geologic unit where the potentiometric head within the unit decreases with depth; and, in the subsurface, where the potentiometric head relationship and leakage factors across any confining unit allow for downward flow into a particular geologic unit.

HH. "Release" means any spilling, leaking, pouring, emitting, emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of hazardous waste or hazardous constituents into the environment including the abandonment or discarding of containers, barrels, and other closed or open receptacles containing hazardous waste or hazardous constituents.

II. "Risk Assessment" means a study consisting of Hazard Identification, Dose-Response Assessment, Exposure Assessment and Risk Characterization. The study must conform at least to the EPA Guidance: "Superfund Public Health Evaluation Manual" EPA #540/1-86/06 October 1986 or more stringent guidelines as established by the Department.

JJ. "Sole source aquifer" is defined as specified in the Federal Safe Drinking Water Act.

KK. "Structural integrity" means the ability of a unit to withstand physical forces exerted upon designed components, appurtenances, and containment structures (e.g., liners, dikes) of the unit.

LL. "Underground mine" means any subterranean excavation for minerals or ores having a roof of undisturbed rock (as opposed to open-pit excavations).

MM. "Washout" means the movement of hazardous waste from the unit as a result of a flood event.

NN. "Wetland(s)" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands must possess three essential characteristics: (1) hydrophytic vegetation, (2) hydric soils, and (3) wetland hydrology.

IV. Location Criteria:

A. Adverse geologic and hydrologic settings:

1. Seismic considerations:

a. New and expanding land-based and non-land-based units shall not be located within a minimum of two hundred feet of a fault where displacement during the Holocene Epoch within the Quaternary Period has occurred. The setback distance or the time period for displacement may be expanded by the Department as necessary to protect human health and the environment.

b. Owners or operators of new and expanding land-based and non-land-based units must demonstrate to the satisfaction of the Department that the structural integrity of the unit will allow it to maintain confinement of the hazardous waste or hazardous waste constituents such that no adverse environmental or health impacts will occur during and after any ground movement, liquefaction, or seismic wave motion equal to the maximum horizontal acceleration predicted with a ten percent probability of occurrence at the site in two hundred and fifty years.

c. Owners or operators of existing land-based and non-land-based units must submit to the Department an amended closure plan and close in accordance with the procedures specified in R.61-79.264 Subpart G of the SCHWMR's unless the owners or operators can demonstrate to the satisfaction of the Department that the requirements specified in paragraphs 1.a. and 1.b. of this section are met for the existing units.

2. Floodplains

a. New and expanding land-based units and appurtenances shall not be located in a one hundred-year floodplain or in the historical migration zone of coastal marine, lacustrine, or braided or meandering fluvial system.

b. New and expanding non-land-based units and appurtenances shall not be located in a one hundred-year floodplain or the historical migration zone of a coastal marine, lacustrine, or braided or meandering fluvial system, unless the owner or operator demonstrates to the satisfaction of the Department that the unit and appurtenances are designed, constructed, operated, and maintained to prevent the washout of any hazardous waste by a one-hundred-year flood, and to enable the unit to withstand the effects of erosion during its active life.

c. Owners or operators of existing land-based and non-land-based units and appurtenances located in a one hundred-year floodplain, but outside the historical migration zone of a coastal marine, lacustrine, and braided or meandering fluvial system, must submit to the Department an

amended closure plan and close in accordance with the procedures specified in R.61-79.264 Subpart G of the SCHWMR unless the owner or operator can demonstrate to the satisfaction of the Department that such units and appurtenances are designed, operated, and maintained to prevent washout of any hazardous waste by a one hundred-year flood, and that such units and appurtenances can withstand the effects of erosion during their active life.

d. Owners or operators of existing land-based units and appurtenances located inside the historical migration zone of a coastal marine, lacustrine, braided or meandering fluvial system must submit to the Department an amended closure plan and close in accordance with the procedures specified in R.61-79.264 Subpart G of the SCHWMR.

e. Owners or operators of existing non-land-based units and appurtenances located inside the historical migration zone of a coastal marine, lacustrine, or braided or meandering fluvial system must submit to the Department an amended closure plan and close in accordance with the procedures specified in R.61-79.264 Subpart G of the SCHWMR unless the owner or operator can demonstrate to the satisfaction of the Department that the unit and appurtenances are designed, constructed, operated, and maintained to withstand the effects of erosion during its active life.

f. The historical migration zone, as outlined under paragraphs 2.a. through 2.e., shall be determined by the owner or operator through a geomorphic study as approved by the Department.

3. Underground mines and caves; the placement of any hazardous waste in any underground mine or cave is prohibited.

B. Unstable terrains

1. Karst

a. New and expanding land-based and non-land-based units shall not be located in karst terrane unless the owner or operator demonstrates to the satisfaction of the Department that:

(1) A geotechnical and hydrogeologic investigation of the site shows that the site is historically stable and subsidence into or collapse of subsurface solution cavities as a consequence of instability caused by liquefaction of overburden or by the dissolution of soluble rocks will not occur; or

(2) Where the requirement of paragraph 1.a.(1) cannot be met, that appropriate engineered measures are applied to ensure the unit's structural integrity and to contain or eliminate any adverse effects to human health and the environment that may occur as a result of karst terrane.

b. Owners or operators of existing land-based or non-land-based units located in karst terrane must submit to the Department an amended closure plan and close in accordance with the procedures specified in R.61-79.264 Subpart G of the SCHWMR's, unless the appropriate demonstration specified in paragraphs 1.a. of this section is made to the satisfaction of the Department.

2. Poor foundation conditions

a. New and expanding land-based and non-land based units shall not be located in regions where poor foundation conditions may exist unless the owner or operator demonstrates to the satisfaction of the Department the following:

(1) The absence of poor foundation conditions at, beneath, adjacent, or in the immediate area of the unit; or,

(2) If poor foundation conditions exist, the problem conditions are corrected.

b. Owners or operators of existing land-based and non-land-based units located in regions where poor foundation conditions may exist must submit to the Department an amended closure plan and close in accordance with the procedures specified in R.61-79.264 Subpart G of the SCHWMR, unless the owner or operator demonstrates to the satisfaction of the Department:

(1) The absence of poor foundation conditions, at, beneath, and adjacent to the unit, or in the immediate area of the unit, or

(2) If poor foundation conditions exist, the problem conditions can and will be corrected by modifying subsurface soil conditions, unit location, or design and operation of the unit.

3. Areas susceptible to mass movement.

a. New and expanding land-based and non-land-based units shall not be located in regions where mass movement may occur unless the owner or operator demonstrates to the satisfaction of the Department the following:

(1) That the unit is not in an area susceptible to mass movement, or

(2) If evidence of mass movement exists, appropriate engineered measures are applied to ensure unit structural integrity and to eliminate the threats posed to human health and the environment by mass movement.

b. Owners or operators of existing land-based and non-land-based units located in regions where mass movement may occur must submit to the Department an amended closure plan and close in accordance with the procedures specified in R.61-79.264 Subpart G of the SCHWMR, unless the owner or operator demonstrates to the satisfaction of the Department the following:

(1) The unit is not in an area susceptible to mass movement, or

(2) If evidence of mass movement exists, appropriate engineered measures can and will be applied to ensure unit structural integrity and to eliminate the threats posed to human health and the environment by mass movement.

C. Media-specific requirements

1. Groundwater

a. Groundwater vulnerability.

(1) New land-based units and expansions of existing land-based units are prohibited in areas where the owner or operator cannot demonstrate to the satisfaction of the Department:

(a) That the unit is underlain by a protective clay or silty clay unit. The thickness of this unit must be greater than five feet. The hydraulic conductivity of this unit must not exceed $1E-06$ centimeters per second. This unit must be composed of materials with a protective high ion exchange capacity and it should have a high organic content. The continuity of this protective unit must be such that it exceeds a minimum of two hundred feet in the hydraulically upgradient direction and a minimum of five hundred feet in the hydraulically sidegradient directions, and it is continuous from below the site to the point where shallow groundwater is discharging to the nearest surface water body; and

(b) That the site is not located in an area where the hydrogeologic conditions allow the migration of groundwater in shallow geologic units, having little potential as an underground source of drinking water, into deeper units. Specific detail concerning this requirement are as follows. At all locations across the site, the potentiometric head in the shallow saturated geologic material overlying the confining unit described in paragraph (a) of this section must be lower than the potentiometric surface of the geologic material below the confining unit (i.e., an upward hydraulic gradient must exist). If the material above the confining unit is not permanently saturated under natural conditions, then the potentiometric head in the geologic units underlying the confining unit must be at an elevation higher than the top of the confining unit; and

(c) That a minimum ten foot separation can be maintained between the base of the waste management unit and the high water table as it exists naturally, or through long-term, permanent and maintenance-free methods; and

(d) That a minimum fifteen foot vertical separation of naturally occurring or engineered material can be maintained between the base of the constructed liner and bedrock. The nature of the material making up this interval is subject to Department approval; and

(e) That the unit is not located over an area where a stratum of limestone exhibiting secondary permeability with an average thickness of greater than five feet lies within fifty feet of the base of the unit.

(f) That a unit can be located such that if a leak should occur, the resulting groundwater discharge to the receiving surface water body shall not contravene standards set by the State Water Classifications and Standards (R.61-68).

(2) Owners or operators of existing land-based units which cannot meet the requirements of paragraph (1) of this section shall submit to the Department an amended closure plan and close

the unit in accordance with the requirements in R.61-79.264 or 265 Subpart G of the SCHWMR's, unless, except in the case (1)(e) of this section, appropriate engineered measures are applied to ensure the unit's structural integrity and to contain or eliminate any adverse effects to human health and the environment that may occur as a result of a release from the unit.

(3) New and expanding non-land-based units are prohibited in areas where the owner or operator cannot demonstrate to the satisfaction of the Department that the requirements of paragraph (1) of this section are met or that appropriate engineered measures are applied to ensure the unit's structural integrity and to contain or eliminate any adverse effects to human health and the environment that may occur as a result of a release from the unit.

(4) Owners or operators of existing non-land-based units which cannot meet the requirements of paragraph (1) of this section shall submit to the Department an amended closure plan and close the unit in accordance with the requirements in R.61-79.264 or 265 Subpart G of the SCHWMR's unless appropriate engineered measures are applied to ensure the unit's structural integrity and to contain, or eliminate any adverse effects to human health and the environment that may occur as a result of a release from the unit.

b. Complex hydrogeology.

(1) New land-based units and expansions of existing land-based units are prohibited in areas where the owner or operator cannot demonstrate to the satisfaction of the Department:

(a) That the hydrogeologic properties of the site can be adequately characterized. The characterization shall include a detailed description of the geologic units below the site (including mineralogy, sedimentary structures, thickness, continuity, and structure), the hydraulic properties of each geologic unit (including secondary porosity and a discussion of variations noted across the site), and direction and rate of groundwater flow within the uppermost aquifer and all interconnected aquifers and confining units using a groundwater flow net. In addition, the relationship between the units below the site to locally and regionally recognized geologic and hydrogeologic units must be described; and

(b) Compliance with the groundwater monitoring requirements under R.61-79.264 Subpart F of the SCHWMR's and

(c) The feasibility of a corrective action program at the site. The demonstration shall show how a corrective action response will be effectively implemented to prevent a release to groundwater from migrating beyond the facility property boundary. The corrective action feasibility demonstration shall illustrate all the factors that are necessary to be in compliance with the corrective action requirements under R.61-79.264 Subpart F of the SCHWMR's.

(2) Owners or operators of existing land-based units in areas which cannot meet the requirements of paragraph (1) of this section shall submit to the Department an amended closure plan and close the unit in accordance with the requirements in R.61-79.264 or 265 Subpart G of the SCHWMR's.

(3) New and expanding non-land-based units are prohibited where the owner or operator cannot demonstrate to the satisfaction of the Department that the requirements of paragraph (1) of this section are met or that appropriate engineered measures are applied to ensure the unit's structural integrity and to contain or eliminate any adverse effects to human health and the environment that may occur as a result of a release from the unit.

(4) Owners or operators of existing non-land-based units which cannot meet the requirements of paragraph (1) of this section shall submit to the Department an amended closure plan and close the unit in accordance with the requirements in R.61-79.264 or 265 Subpart G of the SCHWMR's unless appropriate engineered measures are applied to ensure the unit's structural integrity and to contain or eliminate any adverse effects to human health and the environment that may occur as a result of a release from the unit.

c. Groundwater resource value.

(1) New land-based units and expansions of existing land-based units shall not be located over Class GA groundwater or over the recharge area for Class GA groundwater as designated by the

Department, over a sole source aquifer, or over the recharge area for a sole source aquifer as designated by the Department.

(2) Owners or operators of existing land-based units which cannot meet the requirements of paragraph (1) of this section shall submit to the Department an amended closure plan and close the unit in accordance with the requirements in R.61-79.264 or 265 Subpart G of the SCHWMR's.

(3) New and expanding non-land-based units are prohibited in areas where the owner or operator cannot demonstrate to the satisfaction of the Department that the requirements of paragraph (1) of this section are met, or that appropriate engineered measures are applied to ensure the unit's structural integrity and to contain or eliminate any adverse effects to human health and the environment that may occur as a result of a release from the unit.

(4) Owners or operators of existing non-land-based units which cannot meet the requirements of paragraph (1) of this section shall submit to the Department an amended closure plan and close the unit in accordance with the requirements in R.61-79.264 or 265 Subpart G of the SCHWMR's unless appropriate engineered measures are applied to ensure the unit's structural integrity and to contain or eliminate any adverse effects to human health and the environment that may occur as a result of a release from the unit.

2. Surface water

a. New and expanding land-based and non-land-based units shall be prohibited in the following areas:

(1) Within a minimum of one thousand feet of any navigable waters.

(2) Within that portion of the drainage basin included in a one-half mile radius, at a minimum, on the upstream side of a public drinking water supply intake from a river or stream;

(3) Within that portion of the drainage basin which is within one-half mile, at a minimum, of a lake, pond, or reservoir used as a source of public drinking water supply.

b. The owner or operator of existing land-based and non-land-based units located within the prohibited areas listed in 2.a. above must submit to the Department an amended closure plan and close in accordance with the procedures specified in R.61-79.264 Subpart G of the SCHWMR's unless the owner or operator demonstrates to the satisfaction of the Department the following:

(1) The capability of the unit and the area within the prohibited areas listed in 2.a. above to control and/or contain run-off from the maximum rainfall in twenty four hours from the twenty five-year storm and the capability to divert run-on from land adjoining this area and the unit during such a storm unless sufficient capacity is included in the run-off system to control and/or contain run-on.

(2) The result of any release of hazardous waste to the receiving surface water body will not contravene standards set by the State Water Classifications and Standards (R.61-68).

c. No new and expanding unit shall be located within a minimum of one-half mile of a federally designated wild and scenic river or a state designated scenic river.

3. Air

a. New and expanding hazardous waste units shall not be located in an EPA designated non-attainment area unless the owner or operator demonstrates, prior to operation, that the unit will be in compliance with the Department's Air Pollution Control Requirements for non-attainment areas.

b. The owner or operator of new, expanding and existing hazardous waste units must describe air quality problems which may result from the maximum operations of hazardous waste units. To provide information on the facility's impact on air quality, the owner or operator must prepare an assessment of the air quality impacts which may occur based on historical or estimated meteorological conditions and to what extent such respective problems and conditions will affect neighboring communities including potential damage to wildlife, crops, vegetation and physical structures, public health and the environment.

c. The owner or operator of new, expanding and existing hazardous waste units must prepare a plan for operations when an Air Stagnation Advisory (ASA) is issued for the area in which the

hazardous waste unit is located. An ASA is issued by the national Weather Service to local media and is broadcast on the National Oceanic and Atmospheric Association (NOAA) radio network. The facility must describe what actions will be taken to minimize emissions for the duration of the ASA. In addition, the facility must describe what actions will be taken in the event that any stage of an air pollution episode (as described in SC Air Pollution Control Regulation No. 61-62.3) is declared for that area. These actions must, at a minimum, meet the requirements set forth in Section II of SC Air Pollution Control Regulation No. 61-62.3 for those operations directly related to the facility's hazardous waste unit.

D. Ecological resources:

1. Wetlands

- a. New land-based and non-land-based units shall be prohibited in or adjacent to wetlands.
- b. Expansions of existing land-based and non-land-based units shall be prohibited in wetlands.
- c. Expansions of existing land-based and non-land-based units shall be prohibited adjacent to wetlands unless the following requirements are met by the owner or operator:

(1) All expansion will be a minimum of five hundred feet from a wetlands.

(2) The owner or operator must demonstrate to the satisfaction of the Department long-term integrity of the unit so as to prevent migration of hazardous waste or hazardous constituents into the wetland and to ensure protection of human health and the environment. Such a demonstration shall include adequate design elements and operating procedures to address the following factors:

(a) Erosion, stability, and migration potential of native wetland soils, muds, and deposits used to support the unit or ancillary structures,

(b) Erosion, stability, and migration potential of dredged and fill materials used to support the unit or ancillary structures,

(c) Pathways for movement of hazardous waste or constituents and the migration potential of these materials in the event of a release from the unit,

(d) Ease and ability of characterizing groundwater and surface water flow rates and directions and the effectiveness of groundwater and surface water monitoring in the presence of tidal and other hydrogeologic influences, and

(e) Any additional factors, as necessary, to demonstrate that the integrity of the unit in or adjacent to the wetland is sufficiently protective of human health and the environment.

(3) The owner or operator must demonstrate to the satisfaction of the Department that the unit will be designed and operated so as to provide adequate protection of the ecological resources of the wetland from migration of hazardous waste or hazardous constituents. The demonstration shall include, but not be limited to, consideration of the following factors:

(a) The nature and chemical characteristics of the waste and constituents managed in the unit including its persistence, toxicity, mobility, and propensity to bioaccumulate,

(b) Impacts on fish, wildlife, and other marine resources and their habitat from releases of hazardous wastes or hazardous constituents that may result as a consequence of a unit expansion,

(c) The potential effects of catastrophic hazardous waste or constituent releases to the wetland and the resultant impacts on the environment, and

(d) Any additional factors, as necessary, to demonstrate that ecological resources in or adjacent to the wetland are sufficiently protected.

(4) The owner or operator shall offset unavoidable wetland impacts through wetlands restoration or creation.

(5) The owner or operator must comply with other Federal requirements, as applicable, including Section 10 of the Rivers and Harbors Act of 1899, Executive Order 11990 (Protection of Wetlands), and Executive Order 11988 (Floodplain Management).

(6) Where the proposed expansion involves the discharge of dredged or fill material in a wetland or other waters of the United States, the owner or operator must apply for a permit by the U. S. Army Corps of Engineers as required under Section 404 of the Clean Water Act.

d. Owner or operators of existing land-based or non-land-based units located in or adjacent to a wetland, including wetlands within the facility property, shall close the unit unless the requirements under paragraphs 1.c.(1)-(6) of this section are met.

2. Other environmentally sensitive areas

a. New and expanding land-based and non-land-based units shall be prohibited in the following areas:

(1) On prime farmland as designated by the United States Soil Conservation Service;

(2) Within an area that will adversely impact an archeological site as determined by the State Historic Preservation Officer and the State Archaeologist or a historic site as determined by the State Historic Preservation Officer;

(3) Within a minimum of one-half mile of national or state parks, national wildlife refuges, major water impoundments of one hundred acres or larger, state heritage preserves as defined in Section 51-17-10 of the South Carolina Code of Laws, designated wilderness areas of a national forest, and areas of special national or regional natural, recreational, scenic, or historic value, or other significant environmentally sensitive areas.

b. The owner or operator of existing land-based and non-land-based units located within the prohibited areas listed in 2.a. above must submit to the Department an amended closure plan and close in accordance with the procedures specified in R.61-79.264 Subpart G of the SCHWMR's, unless the owner or operator demonstrates to the satisfaction of the Department that the environmentally sensitive area is adequately protected and will not be adversely affected by the hazardous waste activity at the unit.

E. Buffer zones and setbacks:

1. Buffer zones

a. Owners or operators of new, expanding, and existing land-based units shall establish a dedicated buffer zone of at least but not necessarily limited to two hundred feet, between the unit and the facility property boundary. The required distance will include the minimum of two hundred feet, and any additional distance determined appropriate to adequately ensure that groundwater time-of-travel measured along a one-hundred foot flow line originating at the base of the unit, allows adequate time to implement the corrective action response necessary to remedy a hazardous waste release to groundwater and to contain or eliminate the release within the facility property boundary. Calculation of the groundwater time-of-travel shall be made as specified under EPA Document (530-SW-86-0228) entitled Criteria for Identifying Areas of Vulnerable Hydrogeology under the Resource Conservation and Recovery Act.

b. New and expanding land-based units that cannot establish a dedicated buffer zone to fulfill the requirements under paragraph 1.a. of this section are prohibited.

c. Owners or operators of existing land-based units that cannot establish a dedicated buffer zone to fulfill the requirements under paragraph 1.a. of this section shall submit to the Department an amended closure plan and close the unit in accordance with the requirements in R.61-79.264 or 265 Subpart G of the SCHWMR's, unless plans are submitted to the Department for appropriate additional measures to ensure an equivalent level of protection to human health and environment, which may include, but not necessarily be limited to:

(1) Groundwater Monitoring;

(2) Installation of recovery wells; and

(3) Development of a contingent corrective action plan.

d. A dedicated buffer zone as required under paragraph 1.a. of this section shall meet the following criteria:

(1) Shall consist of an area of land between the unit and the facility property boundary, that is owned by the owner or operator and serves as a separation distance between the unit and the

facility property boundary and must remain accessible for corrective action as necessary. The buffer zone shall not be used for the treatment, storage or disposal of hazardous waste;

(2) Shall serve as a buffer zone for as long as hazardous constituents remain in the unit; and

(3) Shall be recorded as a notation on the facility property deed as a dedicated portion of the facility property for the sole purpose for which it is intended as specified under paragraphs d.(1) and d.(2) of this section.

2. Setbacks

a. For new and expanding units, the owner or operator shall meet the following setback distances at the time of permit application to the Department.

(1) No land-based or non-land-based unit shall be located within a minimum of two thousand feet of any existing church, school, hospital, or any other structure which is routinely occupied by the same person or persons more than twelve hours per day or by the same person or persons under the age of eighteen for more than two hours per day, except those owned by the applicant.

(2) A land-based unit must not be located within a minimum of one thousand feet in the downgradient direction, a minimum of fifteen hundred feet in the sidegradient direction and at any distance upgradient of any well used as a source of water for human or animal consumption and/or bathing or irrigation that is in a hydrologic unit, potentially impacted by the unit. When evaluating this criteria, consideration must be given to the existing and potential use of groundwater. Exceptions to this requirement may be granted if the petitioner can demonstrate to the satisfaction of the Department that the hydrogeologic conditions below the site provide protection to the aquifer in use.

b. Existing land-based and non-land-based units that cannot meet a required setback distance under paragraph a. of this section shall submit to the Department an amended closure plan and close in accordance with the procedures specified in R.61-79.264 Subpart G of the SCHWMR, unless they perform a risk assessment, as approved by the Department, that demonstrates public health and the environment will be adequately protected.

F. Transportation and preparedness:

1. Transportation; new and expanding land-based and non-land-based units shall be prohibited and existing land-based and non-land-based units shall submit to the Department an amended closure plan and close in accordance with the procedures specified in R.61-79.264 Subpart G of the SCHWMR's unless the transportation corridors will minimize the potential for and effects of hazardous spills and accidents in populated communities by demonstrating the following:

a. Access to sites by surface and water transportation modes shall be by roads, rails and water ways with the capacity to accept the demands created by the facility.

b. The facility must be located such that when conveyed on roadways, hazardous waste will be transported on interstate, state, or county highways or other roads which are well maintained, well constructed, free of obstructions and with a high degree of visibility. No hazardous waste shall be transported on roads where weight restrictions for the road or any bridge on the road will be exceeded in the selected route of travel.

c. The facility must be located such that an existing and acceptable alternate route is available if access by the primary transportation corridor is blocked.

2. Preparedness

a. No unit shall be located at a facility where the owner or operator cannot reach an agreement with the Local Emergency Planning Committee (LEPC) for appropriate emergency services unless the owner or operator: (1) documents the refusal of the LEPC to enter into such agreements; and (2) makes appropriate arrangements with the local emergency service authorities such as fire, police, hospitals, and local contractors.

b. The Department reserves the right to require more than minimum requirements for the purpose of protecting public health and the environment, and reserves the right to deny siting approval if adequate emergency preparedness requirements are not provided either through agreements or by the applicant.

c. Owners or operators of existing units which cannot demonstrate to the satisfaction of the Department compliance with paragraphs a. and b. of this section must submit an amended closure plan and close in accordance with the procedures specified in R.61-79.264 Subpart G of the SCHWMMR's.

V. Certification; the information submitted in compliance with this regulation shall be prepared by or under the direct supervision of a professional engineer or geologist as required in the 1976 Code of Laws of South Carolina as amended, Title 40. Chapters 21 and 77.

VI. Severability; should any section, paragraph, sentence, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

HISTORY: Added by State Register Volume 15, Issue No. 2, eff February 22, 1991. Amended by SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

61-105. Infectious Waste Management Regulation.

(Statutory Authority: 1976 Code §§ 44-93-10 et seq., 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024)

A. Purpose and Scope.

(1) The purpose of this regulation is to establish a program to carry out the provisions of the South Carolina Infectious Waste Management Act, Act Number 134 of 1989, Chapter 93 of Title 44 of the 1976 Code of Laws, as amended.

(2) This regulation shall apply to infectious waste management as defined in 44-93-20 of the Act and as further defined herein, that is generated, stored, contained, transferred, transported, treated, destroyed, disposed, or otherwise managed within South Carolina.

(3) Generators, transporters, owners/operators of intermediate handling facilities and treatment facilities, or any other persons who generate, store, contain, transport, transfer, treat, destroy, dispose, or otherwise manage infectious waste in South Carolina shall comply with this regulation.

(4) In addition to the requirements of this regulation, all other applicable requirements of the Department of Environmental Services shall be met.

(5) In addition to the requirements of this regulation, generators, transporters, owners/operators of intermediate handling facilities and treatment facilities, or any other person shall comply with applicable Federal, State, county, and local rules, regulations, and ordinances.

B. Severability.

If any section, subsection, phrase, clause, or portion of this regulation, or the applicability to any person, is adjudged to be unconstitutional or invalid for any reason by a court of competent jurisdiction, the remaining portions of this regulation shall not be affected.

C. Use of Number and Gender.

As used in this regulation:

- (1) Words in the masculine gender also include the feminine and neuter genders; and
- (2) Words in the singular include the plural; and
- (3) Words in the plural include the singular.
- (4) Words have common dictionary meaning unless otherwise specified.

D. Definitions.

(1) Definitions carry common dictionary meanings unless otherwise specified. When used in this regulation the following words have the meaning given below:

- (a) "Act" means the S. C. Infectious Waste Management Act, Act Number 134 of 1989, Chapter 93 of Title 44 of the Code of Laws of 1976, as amended.
- (b) [RESERVED]
- (c) "Certification" means a statement of professional opinion based upon knowledge and belief.
- (d) "CFR" means the Code of Federal Regulations.

(e) "Closure" means the point in time at which facility owners or operators discontinue operation by ceasing to accept, treat, store, or dispose of infectious waste.

(f) "Director" means the Director of the Department or his authorized agent.

(g) "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise managed.

(h) "Containment" means the packaging of infectious waste or the containers in which infectious waste is placed.

(i) "Contingency Plan" means a document setting out an organized, planned and coordinated course of action to be followed in case of a fire, explosion, or release of infectious waste or infectious waste constituents, or interruption of normal procedures of infectious waste management.

(j) "Department" means the South Carolina Department of Environmental Services.

(k) "Destination facility" means an infectious waste treatment facility which has received a permit from the Department in accordance with this regulation or an appropriate out-of-state facility and which is the facility designated by the generator to which waste is to be transported.

(l) "Discharge" or "infectious waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of infectious waste into or onto any land or waters of the State, including groundwater.

(m) "Dispose" means to discharge, deposit, inject, dump, spill, leak, or place any waste into or on any land or water, including groundwater, so that the substance may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

(n) "EPA" means the U. S. Environmental Protection Agency.

(o) "EPA identification number" means the EPA assigned Medical Waste Identification Number.

(p) "Existing facility" means a facility which was in operation under permits issued by the Department on June 8, 1989.

(q) "Expand" means an increase in the capacity of the facility or an increase in the quantity of infectious waste received by a facility that exceeds a permit condition.

(r) "Facility" means a location or site within which infectious waste is treated, stored, and/or disposed of.

(s) "Final closure" means the closure of all infectious waste management units at the facility in accordance with all applicable closure requirements so that infectious waste management activities are no longer conducted at the facility.

(t) "Free liquids" means liquids which separate readily from the portion of a waste under ambient temperature and pressure.

(u) "Generator" means the person producing infectious waste except waste produced in a private residence.

(v) "Generator facility" means a facility that treats infectious waste that is owned or operated by a combination or association of generators, a nonprofit professional association representing generators or a nonprofit corporation controlled by generators, nonprofit foundation of hospitals or nonprofit corporations wholly owned by hospitals, if the waste is generated in this State and treatment is provided on a nonprofit basis.

(w) "Generator Registration Status" means classification of a facility that generates regulated infectious waste, based on the largest amount documented by weight in any one calendar month of the last 12 (twelve) consecutive calendar months.

(x) "Hazardous waste" means a Resource Conservation and Recovery Act (RCRA) hazardous waste as defined in R.61-79.261.3 of the S. C. Hazardous Waste Management Regulations.

(y) "Infectious waste" or "waste" means a material as defined in Section E of this regulation.

(z) "Infectious waste management" means the systematic control of the collection, source separation, storage, transportation, treatment, and disposal of infectious waste.

(aa) "Intermediate handling facility" means any transportation related facility including loading docks, parking areas, storage areas and other similar areas where shipments of infectious waste are held and/or handled for storage during the normal course of transportation and may be off loaded and on loaded.

(bb) "Manifest" means the shipping document authorized and signed by the generator which contains the information required by this regulation.

(cc) "Offsite" means not onsite.

(dd) "Onsite" means the same or geographically contiguous property which may be divided by public or private right-of-way provided the entrance and exit between the properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way.

(ee) "Person" means an individual, partnership, co-partnership, cooperative, firm, company, public or private corporation, political subdivision, agency of this State, county, or local government, trust, estate, joint structure company, or any other legal entity or its legal representative, agent, or assigns.

(ff) "Products of conception" means fetal tissues and embryonic tissues resulting from implantation in the uterus.

(gg) "Pump Event" means any action where treatment residue is removed from a tank holding treatment residue.

(hh) "Radioactive material" means any and all equipment or materials which are radioactive or have radioactive contamination and which are required pursuant to any governing laws, regulations or licenses to be disposed of or stored as radioactive material.

(ii) "Release" means to set free from restraint or confinement.

(jj) "Secured area" means an area which is fenced with a locking gate or which is regularly patrolled by security personnel which prevents access by the general public. An area which has controlled access and barriers to prevent exposure of the general public.

(kk) "Site" means contiguous land, structures, and other appurtenances and improvements on the land used for generating, treating, storing, transferring or disposing of regulated infectious waste with the same ownership.

(ll) "Small quantity generator" means any in-state generator that produces less than fifty (50) pounds of infectious waste per calendar month.

(mm) "Solid waste" means any garbage, refuse, or sludge from a waste treatment facility, water supply plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agriculture operations, and from community activities. This term does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended. Also excluded from this definition are application of fertilizer and animal manure during normal agricultural operations or refuse as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste, which will not have a significant adverse impact on the environment.

(nn) "State" means the State of South Carolina.

(oo) "Storage" means the actual or intended holding of infectious wastes, either on a temporary basis or for a period of time, in a manner as not to constitute disposing of the wastes.

(pp) "Supersaturated" means the condition when any absorbent material contains enough fluid so that it freely drips that fluid or if lightly squeezed, that fluid would drip from it.

(qq) "Transfer facility" means any transportation related facility where shipments of infectious waste are held during the normal course of transportation, but are not off loaded or on loaded into fixed storage areas.

(rr) "Transport" means the movement of infectious waste from the generation site to a treatment facility or site for intermediate storage and/or disposal.

(ss) "Transporter" means a person engaged in the offsite transportation of infectious waste by air, rail, highway, or water.

(tt) "Transport vehicle" means a method used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

(uu) "Treatment" means a method, technique, or process designed to change the physical, chemical, or biological character or composition of infectious waste so as to sufficiently reduce or eliminate the infectious nature of the waste.

(vv) "Treatment facility" means a facility which treats infectious waste to sufficiently reduce or eliminate the infectious nature of the waste.

(ww) "Treatment residue" means the solid or liquid part that remains after infectious waste has been treated to sufficiently reduce or eliminate the infectious nature of the waste.

(xx) "Universal biohazard symbol" means the symbol design that conforms to the design shown in the Federal Occupational Safety and Health Administration (OSHA) Standards .

E. Definition of Infectious Waste.

(1) An infectious waste is any used material which is: generated in the health care community in the diagnosis, treatment, immunization, or care of human beings; generated in embalming, autopsy, or necropsy; generated in research pertaining to the production of biologicals which have been exposed to human pathogens; generated in research using human pathogens; and which is not excluded in two (2) below and which is listed in the categories below:

(a) Sharps.

Any discarded article that may cause puncture or cuts, including but not limited to: needles, syringes, Pasteur pipettes, lancets, broken glass or other broken materials, and scalpel blades.

(b) Microbiologicals.

Specimens, cultures, and stocks of human pathogenic agents, including but not limited to: waste which has been exposed to human pathogens in the production of biologicals; discarded live and attenuated vaccines; and discarded culture dishes/devices used to transfer, inoculate, and mix microbiological cultures.

(c) Blood and Blood Products.

All waste unabsorbed human blood, or blood products, or absorbed blood when the absorbent is supersaturated, including but not limited to: serum, plasma and other components of blood, and visibly bloody body fluids such as suctioned fluids, excretions, and secretions.

(d) Pathological Waste.

All tissues, organs, limbs, products of conception, and other body parts removed from the whole body, excluding tissues which have been preserved with formaldehyde or other approved preserving agents, and the body fluids which may be infectious due to bloodborne pathogens. These body fluids are: cerebrospinal fluids, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, amniotic fluid, semen, and vaginal/cervical secretions.

(e) Contaminated Animal Waste.

Animal carcasses, body parts and bedding when the animal has been intentionally exposed to human pathogens in research or the production of biologicals.

(f) Isolation Waste.

All waste generated from communicable disease isolation of the Biosafety Level 4 agents, highly communicable diseases, pursuant to the 'Guidelines for Isolation Precautions in Hospitals', published by the Centers For Disease Control.

(g) Other Waste.

Any other material designated by written generator policy as infectious, or any other material designated by a generator as infectious by placing the material into a container labeled infectious as outlined in Section J. Any solid waste which is mixed with infectious waste becomes designated as infectious and must be so managed unless expressly excluded in 2 (c) below.

(h) Infectious Waste Residues Resulting from Discharges.

Any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill of any infectious waste.

(2) The following are excluded from the definition of infectious waste:

(a) Hazardous waste which is to be managed pursuant to the Hazardous Waste Management Regulations, R. 61-79, as amended, et seq.

(b) Radioactive material which is managed pursuant to the Department Regulation 61-63, Radioactive Material (Title A).

(c) Mixed waste containing regulated quantities of both RCRA hazardous waste and source, special nuclear, or byproduct material subject to the Atomic Energy Act of 1954, as amended, are to be managed pursuant to all applicable regulations.

(d) Infectious wastes generated in a private residence except when determined by the Director to be an imminent or substantial hazard to public health or the environment.

(e) Etiologic agents or specimens being transported for purposes other than disposal to a laboratory consistent with shipping and handling requirements of the U. S. Department of Transportation, U.S. Department of Health and Human Services, and all other applicable requirements.

(f) Human corpses, remains, products of conception, and anatomical parts that are intended to be interred, cremated, or donated for medical research. Teeth which are returned to a patient.

(g) Infectious waste samples transported offsite by the EPA or the Department for possible enforcement actions or transportation of materials from other governmental response actions.

(3) The Department will determine how individual waste fits into the definitions and/or categories.

F. Generator Requirements.

(1) All in-state generators of infectious waste shall register with the Department in writing on a Department approved form. Registration will be in a manner prescribed by the Department. Registration notices will include at a minimum:

(a) name of the business;

(b) name of the owner and responsible party if different;

(c) physical location of the site of waste generated (each site of waste generated must apply separately);

(d) mailing address of the site of generation;

(e) telephone number of the site;

(f) a contact name of the infectious waste coordinator;

(g) the categories and corresponding amount of infectious waste generated annually (estimated within plus or minus (+ or -) twenty (20) percent;

(h) the method of waste treatment and disposal; and

(i) the Employer Identification Number (EIN).

(2) When any changes occur in the information required in (1) above, the Department must be notified in writing of such changes within thirty (30) days.

(3) Renewal of registration will be every three (3) years for all generators. Registered generators will be notified of renewal requirements by the Department. Facilities that store liquid treatment residue in holding tanks must submit records showing monitoring and pump events for the previous twelve (12) consecutive calendar months.

(4) Fees for registration will be due at the time of initial registration and annually thereafter. Fees will be assessed in accordance with Section DD based on generator's registration status.

(5) Each generator must have a designated infection control committee with the authority and responsibility for infectious waste management. This committee must develop or adopt a written protocol to manage the infectious waste stream from generation until offered for transport. If the generator treats infectious waste onsite, the written protocol must include contingency plans and a Quality Assurance program to monitor these onsite treatment procedures. Small quantity generators are not required to have an infection control committee or a written protocol.

(6) Each generator must:

- (a) segregate infectious waste from other waste at the point of generation;
 - (b) assure proper packaging and labeling of waste to be transported offsite as required in Section I and J, respectively, of this regulation;
 - (c) ensure a manifest is initiated if waste is to be transported offsite as outlined in Section M of this regulation;
 - (d) prevent infectious waste containing radioactive material which is distinguishable from background from leaving the site of generation when the material is under the jurisdiction of the United States Nuclear Regulatory Commission or an Agreement State;
 - (e) maintain records as required by this regulation in Section AA.
 - (f) store waste as outlined in Section K of this regulation;
 - (g) manage infectious waste in a manner which prevents exposure to the public or release to the environment; and
 - (h) treat infectious waste onsite or transport offsite for treatment at a permitted treatment facility.
 - (i) offer infectious waste for offsite transport only to a transporter who maintains a current registration with the Department or the U.S. Postal Service; and
 - (j) Obtain and record accurate weight of waste within fifty (50) days of shipment. Unabsorbed liquid waste produced during the embalming process is exempt from this requirement.
- (7) When a waste generator relocates, closes or ceases to generate infectious waste, the generator must, within thirty (30) days, dispose of all infectious waste and treatment residue in accordance with this regulation and the Department must be notified in writing.
- (8) A registered generator of infectious waste may accept non-regulated infectious waste generated in a private residence, but once accepted, the generator shall assume full responsibility of generation and manage the waste according to this and all applicable regulations.

G. Small Quantity Generators.

(1) All in-state generators must comply with the provisions of Section E; Section F, Parts 1–3, 6–8; and the following:

- (a) sharps, microbiological cultures, products of conception, and human blood and blood products must be managed pursuant to this regulation including but not limited to: packaging, treatment and weight generation rate requirements; and
- (b) small quantity generators may dispose of all other infectious waste as solid waste after properly packaging to prevent exposure to solid waste workers and the public.

(2) Generators who qualify as small quantity generators, as defined above, may transport their own waste provided:

- (a) they never transport more than fifty (50) pounds at any one time;
- (b) the vehicle is identified as required in Section Q(1)(g);
- (c) the waste is manifested as required in Section M;
- (d) the waste is packaged and labeled as required in Section I and Section J; and
- (e) the waste is not transported in the passenger compartment of the vehicle and is in a fully enclosed compartment which protects the container from weather conditions which would compromise the integrity of the container.

(3) If a small quantity generator offers infectious waste for transport offsite for treatment at a destination facility, the waste must be managed pursuant to Sections H through DD of this regulation.

(4) If, in any calendar month, fifty (50) pounds of infectious waste or more is produced, the generator must notify the Department in writing; manage infectious waste pursuant to the entire regulation; and pay the annual fee as outlined in Section DD of this regulation. A generator will be able to claim designation as a small quantity generator after submitting documentation demonstrating twelve (12) consecutive calendar months of waste production less than fifty (50) pounds, or if at

the time of registration, the generator estimates that less than fifty (50) pounds a month will be generated.

H. Segregation Requirements.

Generators shall segregate infectious waste from solid waste as close to the point of generation as practical to avoid commingling of the waste. If infectious waste is put in the same container as other waste, or if solid waste is put into a container labeled as infectious waste, the entire contents of the container shall be managed as infectious waste unless hazardous and/or radioactive material regulations apply, then the most stringent regulations apply as outlined in Section E (2) (a), (b), and (c).

I. Packaging Requirements.

(1) Generators shall assure that infectious waste is packaged in accordance with the requirements of this section and to prevent any release of infectious waste from its packaging before storing, transporting, or offering for transport offsite. Absorbents may be used to aid in the prevention of releases. Waste transported by the U.S. Postal Service must meet the packaging requirements for infectious waste in the Domestic Mail Manual.

(2) All sharps shall be placed and maintained in rigid, leak resistant, and puncture resistant containers which are secured tightly to preclude loss of the contents and which are designed for the safe containment of sharps.

(3) All other types of infectious waste must be placed, stored, and maintained before and during transport in a rigid or semi-rigid, leak resistant container which is impervious to moisture.

(4) Containers must have sufficient strength to prevent bursting and tearing and withstand handling, storage, transfer, or transportation without impairing the integrity of the container.

(5) Containers must be sealed and closed tightly and securely when full by weight or volume, or when putrescent, to prevent any discharge of the contents at any time until the container enters the treatment system.

(6) Plastic bags used inside of containers shall be a red or orange color and have sufficient strength to prevent tearing.

(7) Roll-off containers, trailer bodies, or other vehicle containment areas cannot be used as rigid containment.

(8) Infectious waste must be contained in containers that are appropriate for the type and quantity of waste and must be compatible with selected storage, transportation, and treatment processes.

(9) Reusable or disposable containers are acceptable. Reusable containers must be properly disinfected after each use as outlined in Section L of this regulation.

(10) Compaction of waste by any means shall be prevented prior to entering the containment of the treatment process.

(11) Exempt or excluded waste shall not be packaged as infectious waste. Waste packaged as infectious waste must be managed as infectious waste, except as indicated in Section I(12).

(12) When infectious waste is treated by a technology which does not change the appearance of the bag or outer container, immediately after treatment it shall be clearly labeled with the word "Treated" and the date of treatment on the outside of the container to indicate that the waste was properly treated. This labeling method may be hand written, an indicator tape or chemical reaction. The labeling process shall be water-resistant and indelible.

J. Labeling of Containers.

(1) Generators and transporters must assure that once sealed, containers of infectious waste are properly labeled in English as outlined below.

(2) Containers of infectious waste offered for transport offsite must be labeled on outside surfaces so that it is readily visible with:

- (a) the universal biohazard symbol sign;
- (b) the Department issued number of the in-state generator;
- (c) a labeling process which is water-resistant and indelible; and
- (d) the date the container was placed in storage or sent offsite, if not stored.

(3) Each bag used to line the inside of an outer container shall be labeled with indelible ink or imprinted as outlined in (a) and (c) immediately above.

(4) Transporters must label each outer container at the time it is accepted as specified in Section P (2).

(5) Transporters must affix required labels so that no other required markings or labels are obscured.

(6) Abbreviations may not be used in required labeling except for the common dictionary standard abbreviations.

K. Storage of Infectious Waste.

(1) Storage shall be in a manner and location which affords protection from animals, vectors, weather conditions, theft, vandalism and which minimizes exposure to the public. Storage begins at the time the container is sealed.

(a) The waste must not provide a food source or breeding place for insects or rodents.

(b) The waste must be protected to maintain the integrity of the packaging and provide protection from weather conditions such as water, rain, and wind.

(c) The waste must be stored in a manner to prevent a release or discharge of the contents.

(2) Outdoor storage areas must be locked (for example: roll-off containers, sheds, trailers, van bodies, or any other storage area).

(3) Storage areas must allow access to authorized personnel only.

(4) Storage areas must be labeled with the universal biohazard symbol sign.

(5) Infectious waste must be maintained in a nonputrescent state using refrigeration when necessary.

(a) Generator onsite storage shall not exceed fourteen (14) days without refrigeration or thirty (30) days if maintained at or below 42 degrees Fahrenheit.

(b) Once infectious waste leaves the generator site, the waste must be delivered to a treatment facility within fourteen (14) days without refrigeration or thirty (30) days if maintained at or below 42 degrees Fahrenheit.

(c) Treatment facility onsite storage shall not exceed fourteen (14) days at ambient temperature or thirty (30) days if maintained below 42 degrees Fahrenheit; and.

(6) All floor drains in storage areas must discharge into a Department approved sanitary sewer system or be transported to a Department approved sewerage treatment facility or permitted infectious waste treatment facility.

(7) All ventilation in storage areas must be in compliance with applicable Department air quality requirements and minimize human exposure.

L. Disinfection Standards.

(1) Any material or surface which comes in contact with infectious waste must be disinfected prior to reuse.

(a) Reusable containers which have been used to contain infectious waste must be disinfected immediately after being emptied or treated along with the waste.

(b) Vehicle bodies which have been used to store or transport infectious waste must be disinfected immediately after unloading.

(c) Spillage of infectious waste must be disinfected immediately.

(2) Disinfection can be accomplished by appropriate use of an EPA registered disinfectant used according to the label instructions at the tuberculocidal strength.

(3) Drainage from decontamination processes shall discharge to a Department approved sanitary sewer system or be transported to a Department approved sewerage treatment facility or permitted infectious waste treatment facility.

M. Manifest Form Requirements For Generators.

(1) A generator who transports, or offers for transport, infectious waste for offsite treatment, storage, or disposal, must prepare a manifest using SCDES Form 2116 or another Department

approved form and filled out in a legible manner according to the instructions for that form. The manifest form must accompany the waste at all times after leaving the generator's facility. The manifest form will include, but is not limited to:

- (a) the name of the generator;
 - (b) the Department identification number (if applicable);
 - (c) the address of the site where the waste was generated;
 - (d) a general description of the nature of the waste being shipped;
 - (e) the number of containers of waste;
 - (f) the weight or volume (accurate to within ten (10) percent);
 - (g) a certification by the generator stating "This is to certify that the above-named materials are properly classified, described, packaged, marked and labeled, and are in proper condition for transportation according to the applicable regulations of the Department of Transportation";
 - (h) a certification by the generator that the shipment does not contain regulated quantities of hazardous waste as defined by the S.C. Hazardous Waste Management Regulations;
 - (i) a certification by the generator that the shipment does not contain radioactive material or waste above levels determined in Section F(6)(d) of this Regulation;
 - (j) the name of the transporter who receives the waste from the generator or subsequent transporter and that transporter's Department issued transporter registration number;
 - (k) the date the transporter accepted the shipment;
 - (l) the date the treatment facility accepted the shipment onsite;
- (2) The generator who offers regulated infectious waste for transport offsite shall ensure a manifest is initiated as required in (1) above.
- (3) This generator shall sign by hand or other legally defensible signature where required in (1)(g), (h), and (i).
- (4) The generator shall retain one copy of the manifest after the transporter has accepted the shipment.

N. Infectious Waste Transporter Requirements.

- (1) Transporters of infectious waste which is generated, stored, transferred or treated within South Carolina must be registered with the Department prior to such activity unless otherwise provided by this regulation.
- (2) Generators who transport their own infectious waste offsite, except those generators who qualify as small quantity generators in Section G of this regulation, must also comply with all applicable transporter requirements of this regulation.
- (3) Transporters of infectious waste must comply with all applicable requirements of this regulation during transportation and when the waste is at a transfer facility.
- (a) infectious waste may be transferred from one vehicle to another only at a designated transfer facility; and
 - (b) infectious waste may not be unloaded into fixed storage at a transfer facility.
- (4) Transporters must also comply with the requirements of Sections I and J when they repack defective boxes of infectious waste.
- (5) Transporters must also comply with applicable requirements of this regulation when they:
- (a) store infectious waste, even in the course of transport, in which case the requirements of Section K must be met;
 - (b) remove infectious waste from reusable containers; or
 - (c) repackage or modify packaging of infectious waste.
- (6) Transporters must develop a written infectious waste management plan which must address at a minimum:
- (a) a spill plan;

- (b) contingency plans for alternate treatment, storage and/or disposal sites;
 - (c) handling and storage of waste; and
 - (d) personnel health and safety training.
- (7) A draft of the plan required in Section N (6) must accompany the annual registration application.
- (a) The plan must meet the approval of the Department or be modified so that it will meet approval.
 - (b) After approval by the Department, the infectious waste management plan shall become part of the registration and must be adhered to by the registrant.
 - (c) Changes in this plan must be made by submittal of a written request to the Department which may approve or deny such request.
- (8) Transporters shall prevent discharge of infectious waste from a transport vehicle into the environment.
- (9) It is unlawful for any person to discharge infectious waste or treatment residue into the environment of this State except as permitted by the Department. If a release of infectious waste or treatment residue to the environment is known or suspected, the facility must report to the Department within twenty-four (24) hours and immediately investigate and confirm all suspected releases. Action may then be required by local, state, or federal officials so that the infectious waste or treatment residue discharge no longer presents an actual or potential hazard to human health or the environment.
- (10) The Department may require transporters to clean up and/or disinfect any infectious waste discharge that occurs during transportation or take such action as may be required by state, federal, or local officials so that the infectious waste discharge no longer presents a potential hazard to human health or the environment.
- (11) Transport vehicles containing infectious waste must be managed to prevent access by unauthorized persons.
- (12) [Reserved]

O. Transporter Registration Requirements.

- (1) Each transporter or transfer facility operator must register with the Department on a form which includes at a minimum:
- (a) the transporter's name;
 - (b) the transporter's mailing address;
 - (c) the name for each intermediate handling facility, transfer facility, or transportation related site that the transporter will operate at in South Carolina;
 - (d) the address for each intermediate handling facility, transfer facility, or transportation related site that the transporter will operate at in South Carolina;
 - (e) the telephone number for each intermediate handling facility, transfer facility, or transportation related site that the transporter will operate at in South Carolina;
 - (f) proof of financial responsibility for sudden and accidental occurrences in the amount of at least one million dollars (\$1,000,000) per occurrence exclusive of legal defense costs. This financial responsibility may be established by any one or a combination of the following:
 - (i) evidence of liability insurance, either on a claim made or an occurrence basis, with or without the deductible, with the deductible, if any, to be on a per occurrence or per accident basis and not to exceed ten (10) percent of the equity of the registrant;
 - (ii) self insurance, the level of which shall not exceed ten (10) percent of equity of the registrant as evidenced by submission of financial information as required by the Department; or
 - (iii) other evidence of financial responsibility approved by the Department; and
 - (g) this statement signed by hand by the owner or his authorized agent: "I certify, under penalty of criminal and/or civil prosecution for making or submission of false statements,

representations, or omissions, that I have read, understand, and will comply with the South Carolina Infectious Waste Management Regulation R.61-105.”

(2) No person shall engage or continue to engage in transportation of infectious waste (except as outlined in Section N(2)) in South Carolina unless they register annually with the Department as an infectious waste transporter, and pay applicable fees as outlined in Section DD.

(a) Transporters must notify the Department in writing within thirty (30) days if any changes occur in the information required for registration as outlined in (1) above or if they terminate their business; and

(b) Transporters who fail to re-register by the expiration date of their registration must cease all infectious waste transport activities on the expiration date.

(c) A registration may be terminated or a new or renewal application may be denied by the Department for noncompliance by the transporter with any conditions of the registration, requirements of this regulation, or the Act.

(3) The financial responsibility required in section O(1)(f) above must be maintained. If any change occurs in a registered transporter’s financial responsibility, he must cease to transport infectious waste and notify the Department immediately to determine when and how transportation may be resumed.

(4) Transporters will receive an Infectious Waste Transporter Number upon completion of the registration process. Use of a false, expired, or invalid registration number is prohibited.

(5) Transporter registration and Infectious Waste Transporter Numbers are not transferable.

(6) Transporters which neither pick up infectious waste nor deliver infectious waste within this state are exempt from registration. Transporters who only transport into or within this state regulated infectious waste packaged in accordance with United States Postal Service Domestic Mail Manual infectious waste packaging requirements are also exempt from registration.

P. Transporter Acceptance of Infectious Waste.

Transporter acceptance of infectious waste occurs when the waste is loaded onto the transport vehicle.

(1) Transporters shall accept for transport only infectious waste which is:

(a) packaged as required in Section I;

(b) labeled as required in Section J; and

(c) accompanied by a properly completed manifest, as required in Section R.

(2) Transporters must attach a waterproof identification label to the outside of each container of infectious waste they accept for transport. The label must be affixed in a manner which does not cover any other required labels or markings. This identification label must include but is not limited to:

(a) the transporter’s Department issued identification number, or the transporter’s name, address, and phone number; and

(b) [Reserved]

(3) If the transporter accepts loaded and sealed trailers from a broker or generator, that transporter does not have to assure proper packaging as required in Section I or proper labeling as required in Section J. However, the transporter must:

(a) assure that the load is accompanied by a properly completed manifest; and

(b) prevent discharges of infectious waste, especially fluids, from the cargo-carrying body.

Q. Transport Vehicle Requirements.

(1) Each vehicle used to transport infectious waste must meet at a minimum these requirements:

(a) the vehicle shall have a fully enclosed, leak resistant cargo-carrying body which protects the waste from animals, vectors, weather conditions, and minimizes exposure to the public;

(b) the containers of waste shall be loaded and unloaded so that no compaction or mechanical stress of the waste occurs during handling or during transit;

(c) the cargo-carrying body shall be maintained in a sanitary condition and disinfected immediately after each unloading and as spills are detected;

(d) the cargo-carrying body shall be designed to prevent discharges of infectious waste, especially fluids, into the environment;

(e) the cargo-carrying body shall be decontaminated of visible debris after each unloading;

(f) the cargo-carrying body shall have doors which close tightly and can be sealed with a tamper resistant seal or otherwise secured if left unattended while carrying infectious waste;

(g) identification must be permanently affixed to the cargo-carrying body on two sides and the back in letters a minimum of three (3) inches in height which state:

(i) the registered name of the transporter;

(ii) the transporter's Department issued registration number; and

(iii) the words INFECTIOUS WASTE, MEDICAL WASTE, or BIOHAZARDOUS WASTE.

(h) the biohazard symbol sign must be permanently affixed to the cargo-carrying body on two sides and the front and back.

(2) If a transporter transports or stores infectious waste and other solid waste in the same cargo-carrying body, each waste must be managed as infectious waste unless the waste is subject to Section (E)(2)(a-c).

(3) If a transport vehicle is used to store infectious waste, such storage must, at a minimum:

(a) be in a location which is inside a building with limited access and is locked when unattended; or

(b) be in a location outside which is secured by a barrier which limits access and must be locked when unattended;

(c) and meet the requirements of Section K.

(4) All drainage from the cargo-carrying body shall discharge directly or through a holding tank to a Department approved sanitary sewer system or approved container for appropriate treatment.

R. Manifest Requirements For Transporters.

(1) No transporter shall accept a shipment of infectious waste which is to be transported within South Carolina unless it is accompanied by an infectious waste manifest which has been completed according to the instructions for the Department approved form and signed by the generator.

(2) Before accepting for transport any infectious waste the transporter must:

(a) visually inspect the containers to assure proper packaging, if the waste is loaded by the transporter;

(b) return a copy of the manifest form to the generator before leaving the site.

(3) The transporter, transfer facility operator, and/or intermediate handling facility operator shall ensure that the manifest form accompanies the infectious waste at all times until unloaded for treatment.

(4) The transporter who delivers infectious waste within or into South Carolina must ensure delivery to a registered or properly permitted infectious waste management transporter, transfer facility, intermediate handling facility or treatment facility.

(5) The transporter, upon delivery of infectious waste to a permitted treatment facility, shall:

(a) retain a copy of the completed manifest for his records; and

(b) turn the remaining copies of the manifest over to the treatment facility.

(6) The transporter shall deliver the entire quantity represented on the manifest that he accepted from the generator or another transporter to another transporter or a destination facility.

(7) All transporters and/or management companies which list themselves as the generator on the manifest or a consolidated manifest must assume full responsibility of the generator(s) and must:

(a) attach a copy of the completed new manifest form to the original manifest form and retain a copy of the new and original manifest form; and

(b) maintain a transporter consolidation log indicating all shipments that have been consolidated.

S. Storage Tank Requirements.

(1) Liquid treatment residue generated during the embalming process may be stored in an underground or above ground storage tank located onsite at the generating facility. Tanks in operation at the time this regulation takes effect must meet the use, monitoring, record keeping, disposal, and clean-up requirements of this Section. Tanks installed after the date this regulation becomes effective must meet all requirements of these regulations.

(2) Storage tanks must meet the following conditions:

(a) A facility must notify the Department in writing before installing a tank to be used for storage of treatment residue. Notification should include facility name and address, number of tanks, and storage capacity;

(b) Tank materials of construction must be compatible with treatment residue to be stored;

(c) Tank must be installed and maintained in accordance with manufacturer's instructions;

(d) When treatment residue is removed from the tank, it must be pumped by a person licensed by the Department for the cleaning of disposal systems and sent directly to a regulated facility for further treatment or disposal;

(e) Tank must be monitored following pump events and with a frequency sufficient to demonstrate it is not leaking. Monitoring may be performed utilizing a dipstick, however monitoring must be performed when tank contents are sufficiently settled;

(f) The facility generating waste that is treated and stored in the tank must maintain a record of tank monitoring and pump events;

(g) Tank must be used exclusively for treatment residue storage; and

(h) Tank and records must meet all applicable state and federal requirements, including Industrial Wastewater and Disposal System Clean-out requirements.

(3) The Department may require the generating facility to clean up any treatment residue discharge that occurs during storage or take such action as may be required by state, federal, or local officials so that the treatment residue discharge no longer presents a potential hazard to human health or the environment.

T. Infectious Waste Treatment.

(1) Infectious waste must be treated prior to disposal except as indicated in Section G. After approved and adequate treatment, treatment residue must be disposed of in accordance with state and federal solid waste requirements. Any unused treatment media must be characterized, handled, and disposed of in accordance with applicable regulations.

(2) Treatment must be by one of the following treatment methods in accordance with this regulation and other applicable state and federal laws and regulations:

(a) incineration;

(b) steam sterilization;

(c) chemical disinfection;

(d) embalming fluid containing at least two (2) percent formaldehyde; or

(e) any other Department approved treatment method.

(3) Approval for other forms of treatment must be obtained from the Department and meet standards set at that time by the Department.

(4) The following infectious waste may be disposed of before treatment:

(5) Storage of infectious waste prior to treatment must be in accordance with Section K of this regulation.

(a) an approved liquid or semi-liquid waste other than microbiological cultures and stocks may be discharged directly into a Department approved wastewater treatment disposal system; and

(b) recognizable human anatomical remains may be disposed of by interment or donated for medical research.

(6) It is unlawful for any person to discharge infectious waste or treatment residue into the environment of this State except as permitted by the Department. If a release of infectious waste or treatment residue to the environment is known or suspected, the facility must report to the Department within twenty-four (24) hours and immediately investigate and confirm all suspected releases. Action may then be required by local, state, or federal officials so that the infectious waste or treatment residue discharge no longer presents an actual or potential hazard to human health or the environment.

(7) Facilities that only treat liquid embalming waste with at least a two (2) percent formaldehyde solution and small quantity generators that treat, by an approved method onsite, infectious waste which they generate onsite are not required to be permitted as a treatment facility.

(8) Treatment of infectious waste must be monitored by use of biological indicators or laboratory culture of the treatment residue to ensure that pathogens have been adequately treated. Frequency of this testing shall be determined by the Department on a case-by-case basis or as outlined in this regulation.

(9) Products of conception must be incinerated, cremated, interred, or donated for medical research.

U. Infectious Waste Treatment Facility Standards.

(1) No person may operate an infectious waste treatment or disposal facility or generator facility without first obtaining a permit as required by this regulation except as exempted in section T. A separate permit shall be required for each site or facility although the Department may include one or more different types of facilities in a single permit if the facilities are collocated on the same site.

(2) All treatment facilities must treat the waste as indicated in Section T.

(3) Infectious waste treatment residue must not be disposed of until or unless Department approved monitoring methods confirm effectiveness of the treatment process.

(4) All treatment facilities must develop and submit to the Department for approval a standard operating procedure manual which will include at a minimum:

- (a) unloading and handling procedures;
- (b) safety procedures;
- (c) emergency preparedness and response plans;
- (d) receiving, record keeping, and reporting procedures;
- (e) remedial action plans;
- (f) quality assurance plans for treatment methods;
- (g) radiological and hazardous waste monitoring procedures;
- (h) procedures for identifying types and quantities of infectious waste received;
- (i) contingency plans for use of alternate facilities; and
- (j) procedures for disposition of treatment residues.

(5) Approval for acceptance of infectious waste at a treatment or disposal facility may be withdrawn by the Department for noncompliance with the standard operating procedure manual.

(6) When a facility ceases infectious waste management activities, it shall notify the Department in writing, immediately, and it shall thoroughly clean and disinfect the facility and all equipment used in the handling of infectious waste. All untreated waste shall be disposed of in accordance with the requirements of this regulation.

(7) In the event of an accidental spill of infectious waste the designated personnel at the facility shall:

- (a) contain the spill to the area immediately affected;
- (b) immediately disinfect the area which is contaminated;
- (c) pick up, repackage as required or otherwise immediately remove the spilled material into the treatment system;
- (d) record the incident in a bound log book, including the quantity spilled, personnel involved, and the nature and consequences of the event; and

(e) It is unlawful for any person to discharge infectious waste or treatment residue into the environment of this State except as permitted by the Department. If a release of infectious waste or treatment residue to the environment is known or suspected, the facility must report to the Department within twenty-four (24) hours and immediately investigate and confirm all suspected releases. Action may then be required by local, state, or federal officials so that the infectious waste or treatment residue discharge no longer presents an actual or potential hazard to human health or the environment.

(8) All individuals involved with handling and management of waste shall receive thorough training in their responsibilities and duties. A training protocol shall be submitted to the Department at the time of application for a permit. Training documentation for individuals shall be submitted to the Department within thirty (30) days of completion.

(9) Permittees shall notify the Department in writing within thirty (30) days prior to any changes in ownership, operating control, name, or location. The Department may upon written request transfer a permit to a new owner or operator where no other change in the permit is necessary provided that a written agreement containing a specific date for transfer of permit responsibility and financial assurance between the current and new owner has been submitted to the Department.

(10) A facility receiving waste generated in a hospital or other generator which uses radioactive material must screen incoming waste for radioactivity as they arrive at the treatment facility. Such facilities must:

(a) use instrumentation which is approved by the Department for this purpose;

(b) have the operator properly trained on such equipment;

(c) have such equipment calibrated at least once a year by an authorized calibrator;

(d) maintain a log of quality assurance testing and calibration of such instrumentation; and

(e) report any and all incidents when radioactive materials are detected to the Department for guidance in dealing with the radioactive materials. The Department may allow a treatment facility to hold containers of waste containing radioactive material for radioactive decay after the facility has submitted procedures for appropriately managing the containers and has received approval from the Department. However, under no circumstance may a treatment facility solicit the receipt of radioactive material.

(11) Facilities shall schedule shipments of waste to prevent a backlog of loaded transportation vehicles at the facility or offsite. The number of loaded and unloaded transport vehicles stored onsite will be controlled by permit conditions.

(12) A facility receiving waste generated offsite must log-in transport vehicles as they arrive at the facility in a bound log book and note in this book if any shipments are rejected. The treatment facility must:

(a) disinfect the cargo-carrying compartment(s) immediately after unloading the waste; and

(b) clean out visible debris and immediately put debris into the treatment system.

(13) Incinerators must, in addition to items (1) through (12) above:

(a) provide complete combustion of the waste and packaging to carbonized or mineralized ash;

(b) comply with all applicable regulations issued by the Department; and

(c) receive authorization for disposal of treatment residue from the Department prior to disposition into a landfill located in this state, and said authorization shall be based on relevant analyses and requirements deemed necessary by the Department. Such authorization may be incorporated into a landfill permit.

(14) All steam sterilizers must, in addition to items (1) through (12) above.

(a) use Department approved indicator organisms in test runs to assure proper treatment of the waste. Indicator organisms must be used daily at a commercial facility and monthly at a generator facility in each steam sterilizer;

(b) record the temperature and time during each complete cycle to ensure the attainment of a temperature of 121 degrees Centigrade (250 degrees Fahrenheit) for 45 minutes or longer at

fifteen (15) pounds pressure, depending on quantity and density of the load, in order to achieve sterilization of the entire load; (Thermometers shall be checked for calibration at least annually.)

(c) have a gauge which indicates the pressure of each cycle;

(d) use heat sensitive tape or other device for each container that is processed to indicate that the steam sterilization temperature has been reached. The waste will not be considered appropriately treated if the indicator fails;

(e) use the biological indicator *Bacillus stearothermophilus* placed at the center of a load processed under standard operating conditions to confirm the attainment of adequate sterilization conditions;

(f) maintain records of the procedures specified in (b), and (e) above for period of not less than three (3) years; and

(g) assure that treatment residues are disposed of in accordance with applicable State and Federal requirements.

V. Intermediate Handling Facilities Standards.

(1) No person may operate an infectious waste intermediate handling facility without first obtaining a permit as required by this regulation. A separate permit shall be required for each site or facility although the Department may include one or more different types of facilities in a single permit if the facilities are co-located on the same site.

(2) All intermediate handling facilities must develop and submit to the Department for approval a standard operating procedure manual which will include at a minimum:

(a) unloading and handling procedures;

(b) safety procedures;

(c) emergency preparedness and response plans;

(d) receiving, record keeping, and reporting procedures;

(e) remedial action plans;

(f) procedure for treatment of spills;

(g) radiological and hazardous waste monitoring procedures;

(h) procedures for identifying types and quantities of infectious waste received;

(i) contingency plans for use of alternate facilities; and

(j) procedures for disposition of treatment residues.

(3) Approval for acceptance of infectious waste at an intermediate handling facility may be withdrawn by the Department for noncompliance with the standard operating procedure manual.

(4) When a facility ceases infectious waste management activities, it shall notify the Department in writing, immediately, and it shall thoroughly clean and disinfect the facility and all equipment used in the handling of infectious waste. All untreated waste shall be disposed of in accordance with the requirements of this regulation.

(5) In the event of an accidental spill of infectious waste, the designated personnel at the facility shall:

(a) contain the spill to the area immediately affected;

(b) immediately disinfect the area which is contaminated;

(c) immediately pick up and repackage as required or treat the spilled material;

(d) record the incident in a bound log book, including the quantity spilled, personnel involved, and the nature and consequences of the event; and

(e) It is unlawful for any person to discharge infectious waste or treatment residue into the environment of this State except as permitted by the Department. If a release of infectious waste or treatment residue to the environment is known or suspected, the facility must report to the Department within twenty-four (24) hours and immediately investigate and confirm all suspected releases. Action may then be required by local, state, or federal officials so that the infectious

waste or treatment residue discharge no longer presents an actual or potential hazard to human health or the environment.

(6) All individuals involved with handling and management of waste shall receive thorough training in their responsibilities and duties. A training protocol shall be submitted to the Department at the time of application for a permit. Training documentation for employees shall be submitted to the Department within thirty (30) days of completion.

(7) Permittee shall notify the Department in writing within thirty (30) days prior to any changes in ownership, operating control, name, or location. The Department may upon written request transfer a permit to a new owner or operator where no other change in the permit is necessary provided that a written agreement containing a specific date for transfer of permit responsibility and financial assurance between the current and new owner has been submitted to the Department.

(8) Facilities shall schedule shipments of waste to prevent a backlog of loaded transportation vehicles at the facility or offsite. The number of loaded and unloaded transport vehicles stored onsite will be controlled by permit conditions.

(9) A facility receiving waste generated offsite must log-in transport vehicles as they arrive at the facility in a bound log book and note in this book if any shipments are rejected. The intermediate handling facility must:

- (a) disinfect the cargo-carrying compartment(s) immediately after unloading the waste; and
- (b) clean out visible debris and immediately put debris into the treatment system.

W. Permit Applications and Issuance.

(1) No person may expand or construct a new treatment facility without obtaining an Infectious Waste Management permit issued by the Department. To obtain a permit, the applicant shall demonstrate the need for such a facility or expansion. To determine if there is a need, infectious waste generated outside of the state may not be considered without Department approval.

(2) The Department will determine and publish annually an estimate of the amount of infectious waste to be generated in South Carolina during the ensuing twelve months.

(3) The demonstration of need does not apply to:

- (a) facilities owned by counties, municipalities, or public service districts which accept only infectious waste generated in this state;
- (b) facilities that are owned or operated by the generator of the waste and this waste is generated in this state;
- (c) generator facilities; or
- (d) facilities currently operated under permits issued by the Department, or to the renewal of existing permits issued by the Department if there is no expansion of the capacity as prescribed in the conditions of the permit.

(4) No person may expand or construct a new intermediate handling facility without an Infectious Waste Management permit issued by the Department. Intermediate handling facility permit applicants do not have to demonstrate a need.

(5) To obtain an Infectious Waste Management Permit, the person must complete a permit application as designed by the Department. Permit applications will not be processed until they are deemed complete by the Department.

(6) A draft of the manual required in Section U (4) must accompany the permit application. The manual must meet the approval of the Department or be modified so that it will meet approval. After approval by the Department, the standard operating procedure manual shall become part of the permit and must be adhered to by the permittee. Changes in this manual must be made by submittal of a written request to the Department which may approve or deny such request.

(7) In addition to other requirements, a permit application for a treatment facility or intermediate handling facility must include at a minimum:

- (a) an engineering report which, at a minimum, contains a description of the facility, the process and equipment to be used, the proposed service area, and storage of the waste;

(b) engineering plans and specifications which must, at a minimum, describe the architectural, mechanical, electrical, plumbing, heating, ventilating, process equipment, instrumentation and control diagrams, and performance specifications for all major equipment and control centers;

(c) the latitude and longitude of the facility;

(d) a topographic map (or similar map) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its infectious waste management, treatment, storage, or disposal facilities; those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within the quarter-mile of the facility property boundary; and the 100-year flood plain;

(e) a written acknowledgment from the governing body of the city or town, and/or county in which the facility is to be located that the location and operation of the facility are consistent with all applicable ordinances;

(f) a description of the process to be used for treating, storing, handling, transporting and disposing of infectious waste, and the design capacity of these items;

(g) a description of the type of the infectious waste to be treated, stored, transported or disposed at the facility, an estimate of the quantity of such wastes to be treated, stored, transported, and disposed annually;

(h) a quality assurance and quality control report;

(i) a contingency plan describing a technically and financially feasible course of action to be taken in response to contingencies which may occur during construction and operation of the facility to include a description of how the waste will be managed to protect the waste from flood waters.;

(j) an identification of possible air releases and groundwater or surface water discharges;

(k) a waste control plan describing the manner in which waste will be received, stored, and otherwise managed;

(l) a plan outlining the flow of traffic associated with the facility;

(m) a closure plan which includes the estimated cost of closure;

(i) a closure cost estimate which must be based on the cost of hiring a third party to close the facility; and

(ii) a cost estimate which may not include any salvage value from the sale of any structures, equipment, and other assets.

(n) other information as may be required by the Department.

(8) The Permittee shall notify the Department in writing within thirty (30) days of any changes of the information required in (7) above or changes which would require modifications of the permit as issued.

(9) A permit may be terminated or a new or renewal application may be denied by the Department for noncompliance by the permittee with any conditions of the permit, requirements of this regulation, or the Act.

(10) In addition to conditions required in all permits, the Department shall establish conditions as required on a case-by-case basis, for the duration of the permits, schedules of compliance, monitoring, and to provide for and assure compliance with all applicable requirements of this regulation.

(11) Permits will be valid for the period stated on the permit. If the application for renewal is received as above, the permit will continue in force until the Department makes a permit decision.

(12) As a condition of approval for an Infectious Waste Management Permit, any person who owns or operates a facility or group of facilities for the treatment, storage, or disposal of infectious waste must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from the operation of the facility or group of facilities and assure the satisfactory maintenance, closure, and postclosure care of any facility or group of facilities, and to carry out any corrective action which may be required by the Department. Such form and amount of financial responsibility shall be a permit condition specified by the Department. At any time, should the Department determine that the levels of financial responsibility

ty required are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the Department may adjust the level of financial responsibility required as may be necessary to protect human health and the environment. This adjusted level will be based on the Department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities.

(13) The permittee must immediately notify the Department upon loss of the financial responsibility coverage. A permittee shall cease to treat or store infectious waste upon loss of financial responsibility coverage.

(14) A facility may receive only those waste streams for which it is permitted; however, a facility may request in writing to receive new waste streams which are subject to Department approval or denial.

X. Permit By Rule.

(1) All infectious waste generators which comply with the conditions of (2) below shall be deemed to have a permit by rule.

(2) To qualify for permit by rule the owner and/or operator of the facility shall:

(a) comply with all parts of the Act and this regulation except permitting procedures of Section W.

(b) demonstrate that more than seventy-five (75) percent (by weight, in a calendar year) of all infectious waste that is stored, treated or disposed of by the facility is generated onsite.

(c) assure that no activities at the facility involve the placing of infectious waste directly into the environment.

(d) notify the Department in writing that the facility is operating under a permit by rule and supply the following information:

(i) the name, mailing address, location address, and phone number of the facility;

(ii) type of businesses served;

(iii) the type of facility; and

(iv) the principal officer; and

(e) notify the Department in writing before onsite treatment activities begin.

(3) All infectious waste generators who treat infectious waste and are not exempted in Section T and not meeting the requirements of (2) above shall apply for an infectious waste treatment permit as outlined in Section W.

(4) Any facility deemed to have a permit by rule which fails to satisfy any of the conditions set forth in (2) above or this regulation may have its permit by rule revoked and must obtain a permit as outlined in Section W to continue to store, treat, or dispose of infectious waste.

Y. Manifest Form Requirements For Permitted Treatment Facilities.

(1) Treatment facilities must not accept infectious waste to be treated, stored, or otherwise managed unless accompanied by a Department approved manifest form if the waste is generated offsite.

(2) The owner or operator or his authorized agent of a treatment facility when accepting a manifested shipment shall:

(a) write on the manifest the number of containers accepted and the total weight;

(b) note any discrepancies greater than ten (10) percent of the container count on the manifest; and

(c) retain a copy of the completed manifest form for two (2) years.

(3) When any variation in piece count greater than one (1) percent or in weight greater than ten (10) percent is discovered, the owner or operator shall attempt to resolve the discrepancy with the waste generator or the transporter. If the discrepancy is not resolved, the owner or operator shall submit a letter to the Department, within five (5) days, of receipt of the waste, describing the nature of the discrepancy and the attempts the owner or operator has undertaken to reconcile it. The owner or operator shall include with this letter a legible copy of the manifest in question.

(4) If a facility receives any infectious waste from offsite which is not accompanied by a manifest, or which is accompanied by a manifest which is incorrect, incomplete, or not signed, the owner/operator must prepare and submit to the Department a written copy of a report within fifteen (15) days after receiving the waste. The "Unmanifested Waste Report" must include the following information:

(5) If a facility receives any infectious waste from offsite which is not accompanied by a manifest, the owner/operator must prepare and submit to the Department a written copy of a report within fifteen (15) days after receiving the waste. The "Unmanifested Waste Report" must include the following information:

- (a) the name and address of the facility;
- (b) the date the facility received the waste;
- (c) the identification number or name and address of the generator and the transporter if available;
- (d) a description and the quantity of the waste;
- (e) the method of treatment, storage, or disposal of the waste;
- (f) a certification signed by the owner operator of the facility or his authorized representative; and
- (g) a brief explanation of why the waste was unmanifested, if possible.

Z. Reporting For Permitted Treatment Facilities.

(1) All commercial treatment facilities are required to submit the monthly fees and reports as required by the Act.

(2) All treatment facilities are required to submit an annual report to the Department, covering the period from January 1 through December 31 of each calendar year which shall be submitted to the Department by February 15 of the subsequent year. The report shall include but is not limited to:

- (a) a description of the sources by state, and amounts of infectious waste treated;
- (b) the method used to treat the waste; and
- (c) the amount and disposition of the residue.

AA. Inspections and Record Keeping.

(1) Department representatives are authorized to enter and inspect any property or premises for the purpose of ascertaining compliance or noncompliance with this regulation.

(2) All generators, transporters, transfer facilities, intermediate handling facilities and treatment facilities handling infectious waste generated, treated, transported, or otherwise managed in the State shall maintain all records and manifest copies required by this regulation for a minimum of two (2) years in a location within South Carolina easily accessible to the Department during regular business hours and shall provide these records to the Department upon request. Records may be maintained in paper form or electronically.

(3) If the waste is no longer infectious because of treatment, the generator or permitted facility shall maintain a record of the treatment for two (2) years afterward to include the date and type of treatment, amount of waste treated, and the individual operating the treatment. Records for onsite treatment shall be maintained by the generator for a minimum of two (2) years in a location easily accessible to the Department and shall be provided to the Department upon request. Records may be maintained in paper form or electronically.

(4) If the waste is no longer infectious because of treatment, and the treatment residue is stored onsite in a tank, the generator shall maintain a record of monitoring and pump events for two (2) years afterward to include the date and type of monitoring, who conducted the monitoring, date and amount of waste pumped, and the name of the business or person that provided the pumping service. Pump event data may be in the form of a manifest or log. Records shall be maintained by the generator for a minimum of two (2) years in a location within South Carolina easily accessible to the Department and shall be provided to the Department upon request. Records may be maintained in paper form or electronically.

BB. Enforcement.

(1) Any person who violates any of the provisions of this regulation or any permit issued pursuant hereto, or any order issued by the Department shall be subject to applicable civil, administrative, and criminal penalties as provided for in the Infectious Waste Management Act.

(2) Any registered generator or transporter, or permitted intermediate handling facility or treatment facility is subject to having its registration or permit suspended or revoked upon finding by the Department that:

(a) false or inaccurate information has been submitted in the application process;

(b) laws, Department orders, regulations, or registration or permit conditions have been violated;

(c) reports or other information required by the Department have not been submitted or inaccurately submitted; and/or

(d) lawful inspection has been refused.

CC. Variances.

(1) The Department may, upon written petition from any person who is subject to this regulation, grant a variance from one or more specific provisions of this regulation under the following conditions. The petitioner shall:

(a) identify the specific provisions of this regulation from which variance is sought;

(b) demonstrate that compliance with the identified provision would, on the basis of conditions unique and peculiar to the applicant's particular situation, tend to impose a substantial financial, technological, or safety burden on the petitioner or the public; and

(c) demonstrate that the proposed activity will have no significant adverse impact on the public health, safety, or welfare, the environment or natural resources and will be consistent with the provisions of the Infectious Waste Management Act.

(2) In granting any variance hereunder the Department may impose specific conditions reasonably necessary to assure that the subject activity will have no adverse impact on the public health, safety, or welfare, the environment or natural resources.

(3) Any variance granted by the Department may be immediately withdrawn when the Department finds on the basis of complaints, noncompliance with conditions of the variance or other information that the variance is not in the public interest or protective of human health and/or the environment, or that the petitioner has provided false or inaccurate information on which the variance was granted.

(4) Nothing herein shall be construed as a waiver of the Department's right to deny any petition for a variance.

DD. Fees Section.

Fees are outlined in the Environmental Protection Fees, Regulation 61-30.

EE. Appeals.

(1) A Department decision involving the issuance, denial, renewal, suspension, or revocation of a permit, license, certificate, or certification may be appealed by an affected person with standing pursuant to applicable law, including S.C. Code Title 48, Chapter 6 and Title 1, Chapter 23.

(2) Any person to whom an order is issued may appeal pursuant to applicable law, including S.C. Code Title 48, Chapter 6 and Title 1, Chapter 23.

HISTORY: Added by State Register Volume 15, Issue No. 6, eff June 28, 1991; Amended by State Register Volume 24, Issue No. 5, eff May 26, 2000; State Register Volume 26, Issue No. 6, Part 1, eff June 28, 2002; State Register Volume 29, Issue No. 6, eff June 24, 2005; State Register Volume 34, Issue No. 6, eff June 25, 2010; SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

61-106. TANNING FACILITIES.

(Statutory Authority: 1976 Code §§ 13-7-10, 13-7-40, 13-7-45 et seq., 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024)

Editor's Note

Unless noted otherwise, the following constitutes the history for 61–106, 1.1 to 4.2.

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**PART I
GENERAL PROVISIONS**

1.1. Purpose and Scope

1.1.1 These regulations provide for the registration and regulation of facilities and equipment that employ ultraviolet and other lamps for the purpose of tanning the skin of the human body through the application of ultraviolet radiation.

1.1.2 Nothing in these regulations shall be interpreted as limiting the intentional exposure of patients to ultraviolet radiation for the purpose of medical treatment or therapy prescribed and supervised by a physician who is licensed by the South Carolina Board of Medical Examiners.

1.2. Definitions.

As used in this regulation:

1.2.1 “Act” means Atomic Energy and Radiation Control Act, Section 13–7–10 et seq, 1976 Code of Laws of South Carolina.

1.2.2 “Affected Party” means a tanning registrant whom an enforcement action has been taken by the Department.

1.2.3 “Complaint” is a written document submitted to the Department addressing an existing or potential public health hazard.

1.2.4 “Consumer” means any individual who is provided access to a tanning facility that is required to be registered pursuant to provisions of this regulation.

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

1.2.6 “Individual” means any human being.

1.2.7 “Inspection” means an official examination or observation, including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, or to investigate complaints or injuries.

1.2.8 “Investigation” means a visit by an authorized individual(s) to a registered or unregistered facility for the purpose of determining the validity of complaints or allegations received by the Department relating to this regulation.

1.2.9 “Minor” means any individual less than eighteen (18) years of age.

1.2.10 “Operator” means any individual designated by the registrant to operate or to assist and instruct the consumer in the operation and use of the tanning facility or tanning equipment. Under this definition, the term “operator” means any individual who conducts one or more of the following activities:

- 1) determining consumers’ skin type;
- 2) determining the suitability for use of a tanning device by prospective consumers;
- 3) informing the consumer of the dangers of ultraviolet radiation exposure including photoallergic reactions and photosensitizing reactions;
- 4) determining consumer use of potentially photosensitizing agents;
- 5) assuring the consumer reads and properly signs all forms required by these regulations;
- 6) reviewing, signing, and ensuring required documentation is completed for minors or illiterate or visually impaired consumers;
- 7) maintaining required consumer exposure records;
- 8) recognizing and reporting consumer actual or alleged ultraviolet radiation injuries to the registrant;
- 9) instructing the consumer in the proper use of protective eyewear; and
- 10) setting timers which control the duration of exposure.

1.2.11 “Person” means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent or agency of these entities.

1.2.12 “Personal Use” means tanning equipment that is used solely by an individual and the individual’s immediate family or permanent residents of the individual’s place of residence. Immediate family is defined as the spouse, great-grandparents, grandparents, parents, brothers, sisters, children, grandchildren, great-grandchildren of either the owner of the tanning equipment or the spouse.

1.2.13 “Registrant” means any person who is registered with the Department as required by provisions of this regulation.

1.2.14 “Registration” means registering with the Department in accordance with provisions of this regulation.

1.2.15 “Sanitize” means the effective fungal, viral and bacterial treatment of surfaces of tanning equipment by an EPA-approved product that provides a sufficient concentration of chemicals and enough time to reduce the bacterial count, including pathogens, to an acceptable level.

1.2.16 “Tanning Equipment” means ultraviolet or other lamps and equipment containing such lamps intended to induce skin tanning through the irradiation of any part of the living human body with ultraviolet radiation.

1.2.17 “Tanning Facility” means any location, place, area, structure or business that provides consumers access to tanning equipment. For the purpose of this definition tanning equipment registered to different persons at the same location and tanning equipment registered to the same person, but at separate locations, shall constitute separate tanning facilities.

1.2.18 “Ultraviolet Radiation” means electromagnetic radiation with wavelengths in air between two hundred nanometers and four hundred nanometers.

HISTORY: Amended by SCSR 49–5 Doc. No. 5328, eff May 23, 2025.

1.3. Compliance with Other Laws:

The registrant shall comply with any other applicable federal, state and local regulations dealing with health, sanitation, safety standards and electrical standards.

1.4. Inspections:

All facilities are subject to inspection or investigation at any time, without prior notice, by individuals authorized by the Department. The inspection or investigation may be performed as a result of an injury, complaint, non payment of fees, or as the Department deems necessary.

1.5. Exemptions:

1.5.1 The Department may, upon application therefore or upon its own initiative, grant such exemptions or exceptions from the requirements of this regulation as it determines are authorized by law and will not result in undue hazard to public health and safety.

1.5.2 Any person is exempt from the provisions of this regulation to the extent that such person uses equipment other than tanning equipment that emits ultraviolet radiation incidental to its normal operation.

1.5.3 Any individual is exempt from the provisions of this regulation to the extent that such individual owns tanning equipment exclusively for personal use.

1.5.4 Tanning equipment, while in transit or storage incidental thereto, is exempt from the provisions of this regulation.

1.6. Additional Requirements:

The Department may, by order, impose upon any registrant such requirements in addition to those established in this regulation as it deems appropriate or necessary to minimize danger to public health and safety or property.

1.7. Violations:

The Department is authorized to assess monetary fines and or civil penalties for violations of the provisions of the Act or any regulation, temporary or permanent order, or final determination of the Department.

1.8. Enforcement Actions:

The Department may, upon proper notice to the registrant, impose a fine for failing to comply with these regulations or provisions of the Act, or when the Department deems a situation to constitute an existing or potential public health hazard.

1.9. Fees:

1.9.1 Application Fee:

1.9.1.1 Each registrant shall pay a nonrefundable initial application fee of fifty dollars upon submission of the “Application for Registration of Tanning Facilities” form.

1.9.2 Tanning Equipment Fee:

1.9.2.1 Each registrant shall pay fifty dollars for each piece of tanning equipment.

1.9.2.2 The tanning equipment fee shall be due upon initial assignment of a registration number and on July 15 of each year.

1.9.2.3 Payment of fees shall be made in accordance with the instructions of a “Statement of Fees Due” issued annually or monthly by the Department.

1.9.2.4 Fees required by Section 1.9 for tanning equipment that is issued during a calendar year shall be prorated for the remainder of that year based on the date of issuance of the registration.

1.9.2.5 Persons failing to pay the fees required by Section 1.9 within sixty days from the billing date shall also pay a penalty of fifty dollars. If the required fees are not paid within ninety days of the billing date, the registrant shall be notified that his / her registration is revoked, and that any activities permitted under the authority of the registration must cease immediately or monetary fines and/or civil penalties will be levied.

1.10. Material False Statement:

It shall be a violation of these regulations to make a material false statement to the Department regarding information contained in the application for registration, information pertaining to an inspection or any other information required by any provision of these regulations.

1.11. Communications:

All communications and reports concerning these regulations, and registrations filed thereunder, shall be addressed to the Department at:

SC Department of Environmental Services
Radiation Protection Program
2600 Bull Street
Columbia, SC 29201

HISTORY: Amended by SCSR 49–5 Doc. No. 5328, eff May 23, 2025.

1.12. Violations.

1.12.1 Assessment of monetary fines and or civil penalties will be based upon the severity of the public health risk:

Monetary and/or Civil Penalty Actions:	1 st Offense	2 nd Offense	3 rd Offense
Failure to register and/or pay any fee.	\$500.00	\$1,000.00	\$5,000.00
Ultraviolet radiation burn requiring medical attention and/or equipment-related injuries.	\$1,000.00	\$2,000.00	\$4,000.00
Unsanitary conditions of tanning or tanning-related equipment that could result in the transmission of communicable diseases.	\$1,000.00	\$2,000.00	\$4,000.00
Failure to provide and/or ensure use of Food and Drug Administration (FDA) approved equipment and eyewear.	\$500.00	\$1,000.00	\$1,500.00
Use of medical lamps and/or noncompliant lamps or filters.	\$1,000.00	\$2,000.00	\$3,000.00
Failure to operate a facility in a manner so as not to cause a potential overexposure to non-ionizing radiation or potential transmission of a communicable disease or injury.	\$500.00	\$1,000.00	\$5,000.00

1.12.2 Any person to whom an order is issued may appeal it pursuant to applicable law, including S.C. Code Title 48, Chapter 6; and Title 1, Chapter 23.

1.13 Severability:

If any provision of this regulation or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the regulation that can be given effect without the invalid provision or application, and to this end the provisions of the regulation are severable.

HISTORY: Amended by SCSR 49–5 Doc. No. 5328, eff May 23, 2025.

PART II REGISTRATION OF TANNING FACILITIES AND EQUIPMENT

2.1. Purpose and Scope:

This Part describes the requirements of facilities and equipment that use ultraviolet and other lamps for the purpose of tanning the skin of the human body through the application of ultraviolet radiation.

2.2. Application for Registration of Tanning Facilities:

2.2.1 Each person acquiring or establishing a tanning facility shall register the tanning equipment prior to beginning operation of such a facility.

2.2.2 The registrant shall submit SCDES form 0826, Registration of Tanning Equipment, to SCDES, Radiation Protection Program, 2600 Bull Street, Columbia, SC 29201. Upon completion and receipt of SCDES form 0826, Registration of Tanning Equipment, the Department will issue a tanning facility registration number.

HISTORY: Amended by SCSR 49–5 Doc. No. 5328, eff May 23, 2025.

2.3. Issuance of Registration Document:

2.3.1 No person shall operate a tanning facility until the Department has issued a registration number or otherwise received notification from the Department.

2.3.2 Any facility found operating unregistered shall be subject to a Monetary Fine as described in Section 1.12.1, and/or Civil Penalties.

2.4. Transfer of Registration:

No registration shall be transferred from one person to another or from one tanning facility to another tanning facility.

2.5. Report of Change:

The registrant shall report to the Department, within thirty days, any changes of status affecting the tanning equipment or facility. Report of change of status shall be made in writing and forwarded to the Department.

2.6. Denial, Suspension or Revocation of Registration:

2.6.1 The Department may deny suspend, or revoke a registration:

1. For any material false statement on SCDES Form 0826 Registration of Tanning Equipment; in the application for registration or in the statement of fact required by provisions of this regulation.
2. for falsification or alteration of records required to be kept by this regulation;
3. for operation of the tanning facility in a manner that causes or threatens to cause hazard to the public health or safety;
4. for failure to allow authorized representatives of the Department to enter the tanning facility at reasonable times for the purpose of determining compliance with the provisions of this regulation, or an order of the Department;
5. for failure to pay any fees;
6. for failure to correct violations;
7. for violation of, or failure to observe any of the terms and conditions of this regulation, or an order of the Department;

8. when the current owner of the tanning facility has one or more of the following at another salon: outstanding compliance issues, a poor compliance history, outstanding fees or penalties due, or unresolved enforcement action.

2.6.2 A Department decision involving the issuance, denial, suspension, or revocation of a registration may be appealed by an affected person pursuant to applicable law, including S.C. Code Title 48, Chapter 6; and Title 1, Chapter 23.

2.6.3 The Department may terminate a registration upon receipt of a written request for termination from the registrant.

HISTORY: Amended by SCSR 49–5 Doc. No. 5328, eff May 23, 2025.

PART III

STANDARDS FOR THE TANNING FACILITY

3.1. Purpose and Scope:

This Part provides for the minimum public health requirements for tanning facilities that employ ultraviolet equipment for the purpose of tanning the skin of the human body through the application of ultraviolet radiation.

3.2. Ultraviolet Radiation Exposure:

3.2.1 Each registrant shall ensure that all individuals exposed to ultraviolet radiation will not be subjected to an overexposure of nonionizing radiation that results in a significant burning of the skin requiring medical attention.

3.2.2 A facility must be operated in a manner to prevent a potential overexposure to nonionizing radiation or potential transmission of a communicable disease or injury.

3.3. Sanitation:

3.3.1 The registrant shall ensure that the tanning equipment and protective eyewear required by this regulation are properly sanitized before each use. The sanitizer used shall be one intended and documented for use on the tanning equipment and protective eyewear. The sanitizer shall be mixed and used according to the manufacturer's instructions.

3.3.2 All surfaces of the tanning equipment must be maintained in a condition that does not compromise the effectiveness of sanitation.

3.3.3 A registrant shall not require a consumer to sanitize the tanning equipment or protective eyewear and shall not post any signs requesting such sanitation be performed by the consumer. However, this does not prevent a consumer from re-sanitizing the tanning equipment or protective eyewear if a consumer so chooses after the registrant has performed the sanitation.

3.4. Tanning Equipment:

3.4.1 The registrant shall use only tanning equipment manufactured in accordance with the specifications set forth in 21 CFR 1040.20, "Sunlamp products and ultraviolet lamps intended for use in sunlamp products." The nature of compliance shall be based on the standards in effect at the time of manufacture as shown on the device identification label required by 21 CFR 1010.3.

3.4.2 All tanning equipment must be maintained to prevent injury or burn.

3.5. Protective Eyewear:

3.5.1 If a consumer does not provide protective eyewear, the registrant shall have compliant protective eyewear available for each consumer to use during any use of tanning equipment.

3.5.2 If a consumer fails to provide compliant protective eyewear and chooses not to use the protective eyewear available from the registrant, then the consumer shall not be allowed to tan.

3.5.3 Prior to initial exposure, the tanning facility operator shall instruct the consumer in the proper utilization of the protective eyewear required by this regulation, to include use in accordance with the manufacturer's design, instructions and approval.

3.5.4 Tanning facility operators shall ensure all protective eyewear is in optimal condition.

3.5.5 Tanning facility operators shall ensure the protective eyewear used by the consumer is used in accordance with its design.

3.5.6 The protective eyewear in this regulation shall meet the requirements of 21 CFR 1040.20 (c) (4) (4-1-87 edition).

3.6. Replacement of Ultraviolet Lamps, Bulbs or Filters:

3.6.1 The registrant shall only use lamps that have been certified with the Food and Drug Administration (FDA) as “equivalent” lamps under the FDA regulations and policies applicable at the time of the replacement of the lamps. The format for the equivalency document shall be in compliance with 21 CFR 1040.20 and shall be in the form of User Instructions.

3.6.2 The registrant shall maintain manufacturer’s literature demonstrating the equivalency of any replacement lamps that are not identified as original equipment. The documents for any lamps currently in use shall be kept at the facility and shall be readily available for Department review.

3.6.3 Defective lamps or filters shall be replaced before further use of the tanning equipment.

3.6.4 Lamps and bulbs designated for “medical use only” shall not be used.

3.7. Use of Tanning Equipment by Minors:

3.7.1 The registrant shall not allow minors to use tanning equipment unless the minor provides a consent form signed by the minor’s parent or legal guardian while witnessed by an operator or the owner of the tanning facility. The witness shall provide his/her name, signature, title and date on the consent form.

3.8. Warning Sign:

3.8.1 The following warning sign shall be conspicuously posted in the immediate proximity of each piece of tanning equipment. It shall be legible, and clearly visible, unobstructed by any barrier, equipment, or other item so that the consumer can easily view the warning sign before energizing this tanning equipment:

If you receive any injury from the use of this tanning device, such as a burn or other physical injury, report this injury immediately to a tanning equipment operator and to the SC Department of Environmental Services, Radiation Protection Program, 2600 Bull Street, Columbia, SC 29201, or contact the Department by telephone at (803) 545-4400.

HISTORY: Amended by SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

PART IV OPERATOR TRAINING

4.1. Purpose and Scope:

This Part provides the minimum training requirements for tanning equipment operators who employ ultraviolet and other lamps for the purpose of tanning the skin of the human body through the application of ultraviolet radiation.

4.2. Minimum Operator Training Requirements:

4.2.1 The operator shall ensure the tanning equipment is not operated in a manner to cause overexposure or injury to the consumer. Tanning equipment operators shall be trained at a minimum in the following areas:

1. the required subjects shall include, but not be limited to:
2. the requirements of these regulations, R.61-106 “Tanning Facilities;”
3. the proper procedures for the use and instruction in the use of protective eyewear;
4. recognition of injury or overexposure to ultraviolet radiation;
5. examples and detailed explanations of tanning equipment manufacturers recommended exposure schedules;
6. the Potential photosensitizing agents, to include food, cosmetics and medications, and the possibility of photosensitivity and photoallergic reactions;

7. the Emergency procedures to be followed in case of an actual or alleged ultraviolet radiation injury;
8. biological effects of ultraviolet radiation, to include the potential acute and long term health effects of ultraviolet radiation;
9. the human skin and the tanning process;
10. the public health reasons for avoiding overexposure and the dangers of overexposure;
11. operator training must be documented and available to the Department for review;

61–107. Solid Waste Management.

General. The Solid Waste Management regulations are promulgated pursuant to the provisions of the Solid Waste Policy and Management Act of 1991, which became effective on May 27, 1991, as Act No. 63 of 1991. These regulations are promulgated to achieve the purposes set forth in the Act, as codified in Section 44-96-10 et seq.

61–107.1. Solid Waste Management: Solid Waste Management Grants, Recycling Education Grants, and Waste Tire Grants.

A. Applicability.

The intent of this regulation is to establish procedures for disbursement of solid waste management grants, recycling education grants and waste tire grants to local governments or regions for solid waste management and recycling education in accordance with the intent of the legislature; to assist local governments, regions and public school districts in meeting the requirements of the Solid Waste Policy and Management Act of 1991 (Act 63).

B. Definitions.

1. “Advance funds” means monies approved for known costs to the applicant before the quarterly report is due.
2. “Eligibility” means the standard or criteria by which a county or region or applicant qualifies for grant funds, as determined by the Office and the appropriate Council or Committee. These standards shall include, but are not limited to, completeness of the grant application, proof of existing accumulated waste tire sites, proposed methods of remediation and plans for disposal.
3. “Grant agreement” means the binding contract between the Office and the applicant.
4. “Grant application” means the initial request form for a grant through the Office.
5. “Grants, base portions” means that part of the grant equalling at least twenty-five percent (25%) of the total available in any given grant period.
6. “Grants, incentive portions” means that part of the solid waste reduction grant and recycling education grant equalling at least seventy-five percent (75%) of the total available in any given grant period.
7. “Grant period” means twelve months from the time the grant agreement is properly executed by all parties.
8. “Local government” means any municipality, county, district or authority or any agency thereof which has jurisdiction over the collection, recycling, disposal or treatment of solid waste.
9. “Matching Funds” means funds committed for purposes set forth in this rule in an amount equalling the total solid waste reduction incentive portion of solid waste grants or recycling education grants incentive portion awarded to a local government or region. Matching funds include budgeted funds, funds in escrow, and funds expended on solid waste reduction or recycling education related program activities, but do not include in-kind contributions.
10. “Municipal solid waste” includes any solid waste resulting from the operation of residential, commercial, governmental, or institutional establishments that would normally be collected, processed and disposed through a public or private solid waste management service. The term includes yard trash and industrial solid waste.
11. “Office” means the Office of Solid Waste Reduction and Recycling.
12. “Population” means the 1990 census determination.

13. "Program" means the grant program established and administered by the Office of Solid Waste Reduction and Recycling.

14. "Region" means two (2) or more counties in South Carolina which have prepared, approved and submitted a regional concept application to the Office of Solid Waste Reduction and Recycling for grant funds.

15. "Solid Waste Management Grant Program" means the grant program established and administered by the Office of Solid Waste Reduction and Recycling.

16. "Temporary operating subsidy" means the use of grant funds for operational expenses of a solid waste reduction program or a recycling education program, including personnel costs, training costs, rental of facilities, and other similar expenses approved by the Office.

C. General Grant Application Requirements.

1. Requests for funding shall be submitted to the Office on application forms provided by the Office.

2. Applications received from local governments, regions or public school districts which have not expended or accounted for any unused grant funds from a previous grant shall be denied by the Office. The grant period shall run for twelve months from the date of the executed grant agreement. Applications from local governments, regions or public school districts which have not met their obligations under the terms of any previous grant agreements for funds under this rule shall also be denied by the Office.

D. Disbursement of Funds.

1. Upon receipt and approval of the application, the Office shall determine the exact amount of the grant award and prepare a grant agreement.

2. The grant agreement will be forwarded to the applicant to be signed by a local government official, region official or public school district official for execution.

3. The applicant may request advance funds through the application process; however, known needs must be documented before advance funds can be approved. Within at least thirty (30) days of the properly executed grant agreement by all parties the advance funds will be forwarded to the applicant.

4. Any local government, region or public school district receiving grant funds will report on the status of the grant. Each quarterly report shall include information for reimbursement of actual costs and be submitted fifteen (15) days from the end of the previous quarter. Quarters shall run January 1st through March 31st, April 1st through June 30th, July 1st through September 30th and October 1st through December 31st of each calendar year.

5. The Office has the right to terminate a grant award and demand refund of grant funds for non-compliance with the terms of the award or these rules. The Office shall declare the local government, region or public school district ineligible for further participation in the program until the local government, region or public school district complies with the terms of the grant award or these rules.

E. Grant Recordkeeping.

1. Each recipient of grant funds shall maintain accurate records of all expenditures of grant funds, and shall assure that these records are available for inspection and/or audit upon request by the Office. Records shall be kept until July 31, 1996.

2. Recordkeeping information as required by the Office shall be included on each quarterly report.

F. Specific Solid Waste Management and Recycling Education Grant Requirements.

1. The Office will make available grant application forms to all local governments, and to all public school districts within the State.

2. Upon receipt and approval of the grant application the Office shall determine the amount of the grant award and prepare the grant agreement. Payment of grant awards will be contingent upon receipt and approval of the grant agreement.

3. All local governments applying jointly shall enter into a regional agreement that designates a lead applicant and describes how the funds will be disbursed and used. Any agency or authority

created by regional agreement for solid waste management or recycling education purposes is eligible to apply for grants. The applicant shall submit all required documents in place of the local governments which are party to the agreement. Such applications and submittals shall be equivalent to those required if each local government were applying individually.

4. Applicant shall provide to the Office information on any previous state or federal grant received for the purpose of solid waste management or recycling. This information shall include the grant amount and the grant period.

G. Eligibility Requirements.

1. All applications shall include the following information for the area to be serviced under the terms of the grant:

a. A description of the solid waste management project or public education recycling project for which grant funds are requested, including any business and accounting plans for such projects;

b. An estimate of the quantity, source and type of materials to be collected and recycled under the proposed program, including an explanation of the methods used to estimate this quantity. The quantity shall include the volume of out-of-state waste coming into the service area, but records of out-of-state waste volume shall be shown as a separate item on each quarterly report;

c. A description of all existing or proposed recycling facilities, collection centers or other related service centers located within the county, including ownership, capacity, type of facility and approximate service area of such facilities;

d. Evidence that the grant is needed to achieve the goals set forth in the Solid Waste Policy and Management Act of 1991. This information will require an explanation of how the existing private and public sector recycling programs and efforts will be incorporated into the recycling and education program;

e. A summary of all costs incurred, or to be incurred, in planning or implementing the recycling and solid waste management and recycling education projects;

f. A copy of any regional agreement into which local governments have entered to accomplish the purposes of this rule;

g. Any written contracts, written bids or written agreements which were entered to develop and implement the solid waste management and recycling program;

h. The measurable objectives of the recycling education program, and an explanation of how the education program will directly promote the use of existing or planned local recycling projects; and,

i. A description of the methods to be used in evaluating the success of the solid waste management and recycling education programs. Progress reports and methods used to measure the progress shall be included in the quarterly reports.

2. The grant application shall include a recycling plan for the entire population of the service area (incorporated and unincorporated) containing at least the following information:

a. An explanation of the manner in which the recycling program will be implemented;

b. A timetable for the continued development and implementation of the recycling program;

c. The estimated percentage of the population participating in various types of recycling activities;

d. The estimated percent reduction each year in municipal solid waste disposed at solid waste disposal facilities as a result of public and private recycling programs, including the estimated success rates, perceived reasons for the estimated success or failure, and the public and private sector recycling activities which are ongoing and most successful;

e. An identification and description of the facilities where solid waste is being disposed or processed, the remaining available permitted capacity of such facilities, any planned increases in the capacity of such facilities, and the anticipated effect of recycling programs on the type and size of such facilities;

f. A description and evaluation of solid waste that is being recycled including, but not limited to, glass, aluminum, steel, bimetallic materials, office paper, yard trash, newsprint, corrugated paper, plastics, white goods, waste tires and yard trash;

g. The anticipated and available markets or uses for materials collected through recycling programs;

h. The estimated costs of and revenue from operating and maintaining existing and proposed recycling programs. This does not include specific costs and revenues from privately operated recycling programs, but a summary of such costs and revenues is required if the applicant intends to provide funding for such programs;

i. A description of any recycling activities implemented or existing prior to the effective date of the grant regulations;

j. For those local governments whose comprehensive plans required under the Solid Waste Policy and Management Act of 1991 have been submitted at the time of application, an explanation of how the recycling programs relate to the future land use elements; sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer properties; and capital improvements; and,

k. A description of how all special wastes will be managed.

H. Special Requirements.

1. The Office shall not approve any solid waste management project or recycling education project unless the project directly promotes the success of that project for which the grant was intended.

2. Effective May 27, 1993, no local government or region shall receive a solid waste management grant unless the operator of each solid waste management facility owned or operated by the local government or region has completed an operator training course approved by the Office, as required under the State Solid Waste Policy and Management Act of 1991.

3. Grants shall not be provided to any local government, region or public school district that does not demonstrate a good faith effort to meet the requirements of the Solid Waste Policy and Management Act of 1991.

I. Use of Solid Waste Management and Recycling Education Grant Funds.

1. Solid waste management grants and recycling education grants shall be used to provide funding for solid waste management program capital costs or recycling program capital costs, which include equipment purchases, solid waste scales, facility construction and other such costs approved by the Office, as part of the grant agreement.

2. Solid waste management and recycling education grants may also be used for operating subsidies, provided that the applicant demonstrates that such a use is necessary for the success of the program, and shall show how the subsidy will benefit the program. Within one (1) year of the award the applicant shall provide reasonable assurances that the program will be able to operate without a subsidy from this grant program.

3. Solid waste management grants and recycling education grants shall also be used for projects to assist local governments, regions or public school districts in recycling paper, glass, plastic, construction and demolition debris, white goods, and metals and in composting and recycling the organic material component of municipal solid waste.

4. Solid waste management grants and recycling education grants shall be used to promote recycling, volume reduction, proper disposal of solid wastes, and market development for recyclable materials. Effective May 27, 1997, twenty-five percent (25%) of any grant monies available shall go to local governments, regions or public school districts which have met the solid waste reduction and recycling goals set forth in their solid waste management plans. Bonus grants must be used to fund activities which are related to solid waste management or recycling education.

5. All existing public and private recycling infrastructure shall be fully used to the extent possible when planning and implementing the local government, region or public school district solid waste management or recycling education programs. Funds shall not be used for duplicating existing private and public recycling programs unless the applicant demonstrates that such existing programs

cannot be integrated into the planned solid waste management programs or recycling education programs.

6. Solid waste management grants shall be used to ensure that all solid waste management facilities in this State are sited, designed, constructed, operated and closed in a manner which protects human health and safety and the environment.

J. Allocation of Solid Waste Management Grant Funds and Recycling Education Grant Funds.

1. Effective November 1, 1991, monies used to fund the activities of the Office, grants to local governments, regions, research by state-supported educational institutions and public education programs shall include:

- a. a two dollar fee (\$2.00) on each battery sold in this state;
- b. fifty cents (50¢) from a two dollar fee on each new tire sold in this State;
- c. a two dollar fee (\$2.00) on each white good sold in this State;
- d. eight cents (8¢) on each gallon of oil sold in this State;
- e. out-of-state solid waste disposal fees;
- f. contributions and grants from public and private sources;
- g. oil overcharge monies; and,
- h. monies appropriated by the General Assembly.

2. Local governments or regions may contract with private entities with pre-approval from the Office to assist in carrying out their responsibilities.

3. Each eligible local government, region or public school district shall receive a pro-rata share, based on total serviced population, of the funds in the Solid Waste Trust Fund.

4. Region applications shall be given priority status.

K. Waste Tire Grant Funds Application Requirements and Allocation.

1. The Office will make available waste tire grant application forms to each local government.

2. No later than January 1, 1993, the Office shall determine the first year grant funds available for waste tire grants from the waste tire account of the Solid Waste Management Trust Fund. Each year thereafter, the Office shall determine the amount of funds available.

3. Each county or applicant making application for waste tire grant funds shall meet eligibility requirements as determined by the Office and the State Waste Tire Advisory Committee prior to approval of the application. Counties should also consider the advantages of a regional program prior to receiving grant approval.

4. Upon request, the Office shall provide technical assistance to a local government or region desiring assistance in applying for waste tire grants or choosing a method of waste tire management which would be an eligible use of the grant funds.

L. Use of Waste Tire Grant Funds.

1. Funds in the Waste Tire Grant Trust Fund must be used exclusively through May 27, 1994, to fund grants to a county or region to pay for the cost of disposal of the accumulated waste tires.

2. A waste tire grant must be awarded on the basis of an approved written grant application and properly executed grant agreement. The application must be submitted through the Office for the Waste Tire Grant Committee or appropriate committee to consider. The Committee shall review waste tire grant applications and make recommendations on grant awards to the State Solid Waste Advisory Council. Waste Tire grants must be awarded by the State Solid Waste Advisory Council. Upon the cessation of the State Solid Waste Advisory Council the Waste Tire Grant Committee shall make recommendations to the Office.

3. The Committee may approve waste tire grants to local governments or regions to assist only in the following:

- a. constructing or operating a Tire Derived Fuel (TDF) burning facility for processing or building heat, electricity or other energy recovery;
- b. constructing or operating, or contracting for the construction or operation of a waste tire treatment facility and equipment for disposal;

- c. contracting for waste tire treatment facility services;
 - d. removing or contracting for the removal of waste tires; or,
 - e. performing or contracting for the performance of research designed to facilitate waste tire recycling or disposal.
4. Priority will be given to tire-derived-fuel (TDF) facilities that utilize existing combustion equipment and provide large volume uses.

M. Petroleum Grant Fund Allocation and Requirements.

1. Two-fifths (2/5) of the funds shall be used to establish incentive programs to encourage:
 - a. individuals who change their own oil to return their used oil to used oil collection centers;
 - b. the establishment and continued operation of collection centers which accept used oil; and,
 - c. the establishment and continued operation of recycling facilities which prepare used oil for reuses or which utilize used oil in a manner that substitutes for a petroleum product made from new oil.
2. Two-fifths (2/5) of the petroleum fund shall be used to provide grants for local government or regional projects that the Office determines will encourage the collection, reuse and proper disposal of used oil and similar lubricants. Local government or regional activities may include one or more of the following programs:
 - a. curbside pickup of used oil containers by a local government or its designee;
 - b. retrofitting of solid waste equipment to promote curbside pickup or disposal of used oil at used oil collection centers designated by the local government;
 - c. establishment of publicly operated used oil collection centers at landfills or other public places; or,
 - d. providing containers and other materials and supplies that the public can utilize in an environmentally sound manner to store used oil for collection and return to the used oil collection center.
3. One-fifth (1/5) of the funds shall be used for public education and research including, but not limited to, reuses, disposal and development of markets for used oil and similar lubricants.
4. The petroleum oil fee shall be imposed until the unobligated principal balance of the Petroleum Fund equals or exceeds three million dollars (\$3,000,000.00). The Tax Commission shall be required to adjust the rate of the fee to reflect a full year's collection to produce the amount of revenue required in the fund. The increase or decrease in the fee made by the Tax Commission shall take effect for sales beginning on or after the first day of the third month following determination by the Commission.

N. Aggrieved Party Procedures.

1. Any party aggrieved by a grant decision of the Office may apply in writing within thirty (30) days of the decision to the State Solid Waste Advisory Council for a review of that decision.
2. Within forty-five (45) days of the original grant decision the Office shall inform the aggrieved party of the hearing date, place and time established to review the decision of the Office.
3. The State Solid Waste Advisory Council shall review the Office decision within sixty (60) days of the original grant decision date.
4. Upon the cessation of the State Solid Waste Advisory Council, grant decision reviews shall be heard by the appropriate review committee. The grant decision reviews shall be heard within the same time frame established for the State Solid Waste Advisory Council.

61–107.2. Solid Waste Management: Full Cost Disclosure.

(Statutory Authority: 1976 Code §§ 44–96–90, 48–6–10 et seq., and 2023 Act No. 60, effective July 1, 2024)

A. Applicability.

This section applies to all local governments which provide solid waste management services.

B. Definitions.

1. "Collection" means the act of picking up solid waste material from homes, businesses, governmental agencies, institutions, or industrial sites.
2. "Composting Facility" means any facility used to provide aerobic thermophilic decomposition of the solid organic constituents of solid waste to produce a stable, humus-like material.
3. "County Solid Waste Management Plan" means a solid waste management plan prepared, approved, and submitted by a single county pursuant to Section 44-96-80 of the South Carolina Solid Waste Policy and Management Act of 1991.
4. "Department" means the South Carolina Department of Environmental Services.
5. "Depreciation" means the decrease in value of property through wear, deterioration, or a decrease in usefulness (obsolescence).
6. "Facility" means all contiguous land, structures, other appurtenances and improvements on the land used for treating, storing, and/or disposing of solid waste. A facility may consist of several treatment, storage, and/or disposal operational units, including, but not limited to, one or more landfills, surface impoundments, or combination thereof.
7. "Full Cost Accounting" The use of an accounting system that isolates, and then consolidates for reporting purposes, the direct and indirect costs that relate to the operation of a solid waste management system.
8. "Incineration" means the use of controlled flame combustion to thermally break down solid, liquid, or gaseous combustible waste, producing residue that contains little or no combustible material.
9. "Industrial Waste" means solid waste that results from industrial processes including but not limited to, factories and treatment plants.
10. "Landfill" means a disposal facility or part of a facility where solid waste is placed in or on land, and which is not a land treatment facility, a surface impoundment, or an injection well.
11. "Local Government" means a county, any municipality located wholly or partly within the county, and any other political subdivision located wholly or partly within the county when such political subdivision provides solid waste management services.
12. "Materials Recovery Facility" means a solid waste management facility that provides for the extraction from solid waste of recoverable materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials.
13. "Municipal Solid Waste Landfill" means any sanitary landfill or landfill unit, publicly or privately owned, that receives household waste. The landfill may also receive other types of solid waste, such as commercial waste, nonhazardous sludge, and industrial solid waste.
14. "Per Capita" means per unit of population or per person.
15. "Person" means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.
16. "Region" means a group of counties in South Carolina which is planning to or has prepared, approved, and submitted a Regional Solid Waste Management Plan to the Department pursuant to Section 44-96-80 of the South Carolina Solid Waste Policy and Management Plan of 1991.
17. "Regional Solid Waste Management Plan" means a solid waste management plan prepared, approved, and submitted by a group of counties in South Carolina pursuant to Section 44-96-80 of the South Carolina Solid Waste Policy and Management Act of 1991.
18. "Service Area" means the area in which the local government provides, directly or by contract, solid waste management services.
19. "Solid Waste" means any garbage, refuse, or sludge from a waste treatment facility, water supply plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial mining, and agricultural operations and from community activities. This term does not include solid or dissolved material in domestic sewage, recovered material, or solid or dissolved materials subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1964, as amended. Also excluded from this definition are application of

fertilizer and animal manure during normal agricultural operations, or refuse as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste, which will not have a significant adverse impact on the environment.

20. "Solid Waste Disposal Facility" means any solid waste management facility or part of a facility at which solid waste is intentionally placed into or on any land or water and at which waste will remain after closure.

21. "Solid Waste Management Services" means all activities that are involved with trash and other waste collection, transportation, recycling and processing, and disposal.

22. "State Solid Waste Management Plan" means the plan which the Department of Environmental Services is required to submit to the General Assembly and to the Governor pursuant to Section 44-96-80 of the South Carolina Solid Waste Policy and Management Act of 1991.

C. Full Cost Disclosure Regulations.

1. Not later than one (1) year after the effective date of this regulation and annually thereafter, each local government shall determine its full cost for its solid waste management services within its service area for the previous fiscal year.

2. Each local government shall publish annually, on or before October 1 of the following year, a notice in a newspaper of general circulation in its service area setting forth the full cost and the cost to residential and nonresidential users, on an average or individual basis, of its solid waste management services within its service area for the previous fiscal year. In calculating the costs, local governments must include costs charged to them by persons with whom they contract for solid waste management services.

3. Each local government shall provide to the Solid Waste Management Division of the Department by October 15, a copy of the public notice of solid waste management cost as it appeared in the newspaper of general circulation as required by Section 2. In addition, the local government shall provide to the Department by October 15, completed copies of Forms one (1) and two (2), "Solid Waste Management Services Total Cost Report", and Solid Waste Management Services Full Cost Accounting Summary of Costs Report", respectively, provided as the attachment to this regulation.

4. For local governments which provide collection, recycling and composting, transfer station services, or other waste management services, without providing final disposal facilities, "full cost" shall, at a minimum, include an itemized accounting of:

- a. the cost of equipment, including, but not limited to, trucks, containers, compactors, parts, labor, maintenance, depreciation, insurance, fuel and oil, and lubricants for equipment maintenance;
- b. the cost of overhead, including, but not limited to, supervision, payroll, land, office and building costs, personnel and administrative costs of running the waste management program, and support costs from other departments, government agencies, and outside consultants or firms;
- c. the costs of employee fringe benefits, including, but not limited to, social security, worker's compensation, pension, and health insurance payments; and,
- d. disposal costs and laboratory and testing costs.

5. For local governments which provide disposal services, "full costs" shall include, at a minimum, an itemized accounting of:

- a. the cost of land, disposal site preparation, permits and licenses, scales, buildings, site maintenance and improvements;
- b. the costs of equipment, including operation and maintenance costs such as parts, depreciation, insurance, fuel and oil, and lubricants;
- c. the costs of labor and overhead, including, but not limited to, supervision, payroll office and building costs, personnel and administrative costs of running the solid waste management program, and support costs from, and studies provided by, other departments, government agencies, and outside consultants or firms;
- d. the costs of employee social security, workers compensation, pension and health insurance payments; and,

e. disposal costs, leachate collection and treatment costs, site monitoring costs, including, but not limited to, sampling, laboratory and testing costs, environmental compliance inspections, closure and post-closure expenditures, and escrow, if required.

6. A person operating under an agreement to collect or dispose of solid waste within the service area of a local government or region shall assist and cooperate with the local government or region to make the calculations or to establish a system to provide the information required under this section. However, contracts entered into prior May 27, 1991, are exempt from the provisions of this regulation.

HISTORY: Amended by SCSR 49–5 Doc. No. 5328, eff May 23, 2025.

61–107.3. Solid Waste Management: Waste Tires.

(Statutory Authority: 1976 Code §§ 44–96–10 et seq., 48–6–10 et seq., and 2023 Act No. 60, effective July 1, 2024)

Part I. General Provisions.

A. Applicability.

1. The requirements of this regulation apply to waste tire haulers, collectors, processors and disposers, except as specifically exempted.

2. The requirements of this regulation do not apply to a person using waste tires for agricultural purposes provided the tires are maintained so as to prevent and control mosquitoes and other public health nuisances as determined by the Department.

3. The requirements of this regulation do not apply to a tire manufacturer as related to the disposal only of tires generated in the course of its scientific research and development activities, so long as the waste tires are buried on the facility's own land or that of its affiliates or subsidiaries and the disposal facility is in compliance with all applicable regulations.

B. Definitions.

1. "Department" means the South Carolina Department of Environmental Services.

2. "Local government" means a county, any municipality located wholly or partly within the county, and any other political subdivision located wholly or partly within the county when such political subdivision provides solid waste management services.

3. "Person" means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.

4. "Processed tire" means a waste tire that has been cut, shredded, burned, or otherwise altered so that it is no longer whole; or waste tires that have been baled or compacted. The term does not include tire products as described in the waste tire processing permit application and approved by the Department in the permit.

5. "Quantity" means either volume as measured by cubic yard, weight as measured in tons or pounds, or actual number of tires by type.

6. "Residual" means any liquid, sludge, metal, fabric, or by-product resulting from the processing or storage of tires. Residual does not include processed tires held for recycling or disposal.

7. "Solid waste management facility" means any solid waste disposal area, volume reduction plant, transfer station, or other facility, the purpose of which is the storage, collection, transportation, treatment, utilization, processing, recycling, or disposal, or any combination thereof, of solid waste. The term does not include a recovered materials processing facility or facilities which use or ship recovered materials, except that portion of the facility that is managing solid waste.

8. "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle, trailer, or motorcycle, as defined in S. C. Code Section 56–3–20(2), (4), and (13). It does not include an industrial press-on tire, with a metal or solid compound rim, which may be retooled.

9. "Tire derived product" means processed tire material that has been sold and removed from the processing facility.

10. "Tire disposal" means to deposit, dump, spill, or place any waste tire, processed tire, or residuals into or upon any land or water.

11. "Tire recycling" means any process by which waste tires, processed tires, or residuals are reused or returned to use in the form of products or raw materials.

12. "Waste tire" means a whole tire that is no longer suitable for its originally intended purpose because of wear, damage, or defect.

13. "Waste tires for agricultural purposes" means waste tires that are generated during the normal production of plants and livestock, and which are kept on-site for beneficial re-use.

14. "Waste tire collection facility" means a permitted facility or a facility exempted from the permit requirement, used for the temporary storage of waste tires.

15. "Waste tire generator" means any person whose action or process produces a waste tire, or whose action first causes a waste tire to become subject to regulation.

16. "Waste tire hauler" means a person engaged in the transportation of greater than fifteen (15) waste tires at one (1) time for the purpose of storage, processing, or disposal.

17. "Waste tire processing facility" means a site where equipment is used to recapture reusable by-products from waste tires or to cut, burn, or otherwise alter whole waste tires so that they are no longer whole. The term includes mobile waste tire processing equipment, waste tire pyrolysis units, and waste tire baling or compacting equipment.

18. "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

C. Manifesting.

1. Any person who transports more than fifteen (15) tires at a time, shall document the transport of the tires using a South Carolina Waste Tire Manifest, or other document approved by the Department.

2. The manifest shall be used to track and certify the movement of waste tires from the point of origination to a permitted waste tire collection facility, a permitted solid waste management facility, or a permitted, or approved, waste tire processing facility.

3. The waste tire hauler shall sign the manifest and secure the signatures of both the waste tire generator and a representative of the waste tire collection, processing, or disposal facility to which the tires are delivered.

4. The manifest shall document the following:

- a. The quantity of waste tires or processed tires collected;
- b. The name, address, and contact information of the waste tire generator of the waste tires or processed tires;
- c. The name, address, and contact information for the location to which the waste tires or processed tires were delivered;
- d. The number of tires that were sorted for reuse; and,
- e. The quantity of waste tires or processed tires that were delivered to the collection, processing or disposal facility.

5. Within thirty (30) days of collecting waste tires from a location, a waste tire hauler shall provide a completed, final manifest to the waste tire generator, documenting delivery to a waste tire collection, processing or disposal facility.

6. A waste tire hauler shall record and maintain a copy of the completed manifest for three (3) years. Manifests shall be available for inspection by Department personnel during normal business hours.

7. A waste tire collection, processing, or disposal facility shall retain a copy of the completed manifest for three (3) years, and shall make manifests available for inspection by Department personnel during normal business hours.

8. Local governments and their agents that haul waste tires only from designated residential recycling/convenience centers to the local government consolidation point, are exempt from the manifest requirements of this Part.

D. Penalties.

1. The Department may impose civil penalties not to exceed ten thousand dollars (\$10,000), for each day of violation, for violations of the regulation.

2. A person who willfully violates this regulation is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars (\$10,000) for each day of violation, or imprisoned for not more than one (1) year, or both.

3. If the conviction is for a second or subsequent offense, the punishment must be a fine not to exceed twenty-five thousand dollars (\$25,000) for each day of violation, or imprisonment not to exceed two (2) years, or both.

E. Violations. Each day of noncompliance with an order issued pursuant to this section or noncompliance with a permit, regulation, standard, order, or requirement established under Section 44-96-170 of the South Carolina Solid Waste Policy and Management Act constitutes a separate violation.

F. Variances. Any request for a change to the adherence to a provision or provisions of this regulation, or to a permit issued pursuant to or in accordance with this regulation, shall be made in writing to the Department. The Department shall provide a written response to such a request. Variances will be granted at the discretion of the Department.

Part II. Waste Tire Hauler Requirements.

A. Applicability and Conditions.

1. The requirements of this section apply to haulers of waste tires and processed tires who haul more than fifteen (15) waste tires or passenger tire equivalents at any one (1) time.

2. Persons who use company-owned or company-leased vehicles to transport tire casings for the purposes of retreading between company-owned or company-franchised retail tire outlets and retread facilities owned or franchised by the same company are not considered waste tire haulers unless they also transport waste tires.

3. Local governments, that haul waste tires only from residential curbside collection programs or designated recycling/convenience centers to the local government consolidation point, are exempt from the hauler registration requirements of Part II of this regulation.

4. Waste tires shall be transported under such conditions and circumstances so as to control mosquitoes and prevent their spread.

5. A waste tire hauler shall deposit waste tires and processed tires at a permitted waste tire processing facility, permitted waste tire collection facility, permitted solid waste management facility, or at another site approved by the Department.

B. Registration.

1. No waste tire hauler may transport waste tires unless registered with the Department and issued a registration number.

2. Waste tire hauler registrations shall have an annual expiration date of March 1.

3. A new application for registration shall be submitted at least thirty (30) days before the hauler intends to begin transporting waste tires.

4. Renewal applications shall be submitted at least thirty (30) days before the expiration date of the existing registration.

5. The application shall be on a form provided by the Department, and shall contain at a minimum the following information:

a. The name and address of the hauling company and the names and addresses of the officers or owners of the hauling company;

b. Information on the locations in South Carolina or elsewhere to which the waste tires will be transported for storage, processing, or disposal;

c. Documentation that the applicant has secured financial assurance in accordance with Part II.D of this regulation; and,

d. For renewal applications, the annual report required in Part II.C of this regulation.

6. A person may submit one (1) application for registration of a fleet of multiple vehicles.

C. Annual Report.

1. Waste tire haulers shall submit to the Department, on a form to be provided by the Department, a completed annual report to reflect the information collected under Part I.C.

2. This report shall be submitted to the Department annually by March 1 of each year to reflect the previous calendar year.

D. Financial Assurance for Waste Tire Haulers.

1. Waste tire haulers that haul tires for compensation by other persons shall be required to provide financial assurance to pay for corrective action.

2. Waste tire haulers shall provide financial assurance in the amount of ten thousand dollars (\$10,000).

3. The financial assurance shall be issued in favor of the Department and shall consist of one (1) or more of the following mechanisms: surety bond, irrevocable letter of credit, insurance, trust fund, corporate financial test, or other evidence of financial responsibility assurance approved by the Department.

4. The Department shall use the financial assurance when necessary to pay for clean-up or corrective action. Any money remaining after completion of clean-up and/or corrective action shall be returned to the person who posted the financial assurance.

5. Financial assurance requirements of Part II.D of this regulation do not apply to a local government that hauls waste tires.

Part III. Waste Tire Collection Facility Requirements.

A. General Requirements for Waste Tire Collection Facilities.

1. No person shall store more than one hundred twenty (120) waste tires or processed tires unless the waste tires or processed tires are:

- a. Collected and stored at a permitted waste tire collection facility, in accordance with this regulation;
- b. Collected and stored at a permitted solid waste management facility before processing and recycling or disposal in accordance with this regulation; or,
- c. Managed as otherwise exempted by this regulation.

2. The operator of a waste tire collection facility shall not accept waste tires in excess of the storage limit defined in the facility permit. Each tire stored in excess of the permitted storage limit may be considered a separate violation of this regulation.

3. At least seventy-five (75) percent of the waste tires and processed tires that are both stored at the facility at the beginning of each calendar quarter, and delivered to the facility during each quarter, shall be removed from the facility during the quarter.

4. All waste tire collection facilities must comply with the requirements of this regulation, unless otherwise exempted or approved by the Department.

5. The owner or operator of a waste tire collection facility shall control mosquitoes and rodents so as to protect the public health and welfare and to prevent public health nuisances on or sourced from the facility. The owner or operator shall implement such mosquito control measures or other pest control measures as may be required by the Department and/or local mosquito control program. Records shall be kept of all mosquito control activities and made available upon request.

B. Exemptions. The following activities do not require a collection facility permit if the designated waste tire sites are maintained so as to prevent and control mosquitoes or other public health nuisances as determined by the Department:

1. A tire retailing business storing less than one thousand (1,000) waste tires on the business premises; tires managed for resale do not count toward this limit provided they are segregated from waste tires and stored by size in a rack or stack not more than two rows wide, in such a manner as to allow the inspection of each individual tire;

2. A tire retreading business storing less than two thousand five hundred (2,500) waste tires on the business premises, or a tire retreading facility that is owned or operated by a person manufacturing tires in this state or a parent company or its subsidiaries manufacturing tires in this state;

3. A business that in the ordinary course of business, removes tires from motor vehicles, if less than one thousand (1000) of these tires are being stored on the business premises; or

4. A permitted solid waste management facility with less than two thousand five hundred (2500) waste tires temporarily stored on the business premises.

C. Location and Design Criteria.

1. All facilities shall comply with the minimum buffers listed below, as they exist at the time the permit application is received by the Department:

a. A minimum two hundred (200)-foot buffer shall be required from residences, schools, day-care centers, churches, hospitals, and publicly owned recreational park areas;

b. A minimum fifty (50)-foot buffer shall be required from property lines;

c. A minimum two hundred (200)-foot buffer shall be required from any body of water or any wetlands area; and,

d. A minimum two hundred (200)-foot buffer shall be required from public or private drinking water wells.

2. The Department may approve, with documented consent of all property owners within the buffer, less stringent buffers than those listed in this regulation.

3. The Department reserves the right to require more stringent buffers if it is determined, based on the location or operations, that more stringent buffers are necessary to protect health and the environment.

4. The Department's permit decision does not supersede, affect, or prevent the enforcement of a zoning regulation or ordinance within the jurisdiction of an incorporated municipality or county, or by an agency or department of this state.

5. Local governments may require siting criteria and buffer distances that are more stringent than the state regulations.

6. The Department may issue a variance to operate with less restrictive buffers with documented consent of all property owners within the buffer, or when the technology and practices of the operation justify the reduction. The request shall be made in writing to the Department.

7. Permitted facilities operating on the effective date of this regulation shall not be subject to the location criteria.

8. The facility shall be managed so that stormwater or floodwater is diverted around and away from the storage piles.

9. Access to the facility shall be controlled through the use of fences, gates, natural barriers, or other means approved by the Department.

10. The facility shall be bermed or given other adequate protection deemed necessary by the Department to keep liquid runoff from a potential tire fire from entering a body of water.

D. Operating Criteria.

1. A waste tire pile or processed tire pile shall have no greater than the following maximum dimensions:

a. Width: fifty (50) feet;

b. Area: ten thousand (10,000) square feet; and,

c. Height: fifteen (15) feet.

2. A fire lane fifty (50) feet wide shall be placed around the perimeter of each waste tire pile. Access to the fire lane for emergency vehicles must be unobstructed at all times.

3. The owner or operator of a waste tire facility shall control mosquitoes and rodents to protect public health and welfare. The owner or operator shall implement such mosquito control measures or other pest control measures as may be required by the Department and/or local mosquito control program. Records shall be kept of all mosquito control activities and/or preventive measures and shall be made available upon request.

4. If the facility receives tires from persons other than the operator of the facility, a sign shall be posted at the entrance of the facility that states operating hours, permit number, and emergency contacts.

5. No operations involving the use of open flames shall be conducted within fifty (50) feet of a waste tire pile.

6. An approach and access road to the waste tire facility shall be kept passable for emergency vehicles at all times.

7. An attendant shall be present when the waste tire facility is open for business and the facility shall be secured from public access when closed.

8. Fire protection services for the facility shall be assured through arrangements with local fire protection authorities. Documentation of these arrangements must be provided to the Department and made available upon request.

9. Communication equipment shall be maintained in working order at the waste tire facility to ensure that the site operator and other employees can contact local fire protection authorities in the event of an emergency.

10. The waste tire storage areas of the facility shall be kept free of grass, underbrush, and other potentially flammable material at all times.

11. The operator of the facility shall prepare and keep at the facility an emergency preparedness manual. The manual shall be updated at least once a year. The manual shall contain, at a minimum, the following elements:

a. A list of names and telephone numbers of persons to be contacted in the event of a fire, flood, or other emergency;

b. A list of the emergency response equipment at the facility, with the location of the equipment clearly shown on a facility map, and instructions for its use in the event of a fire or other emergency; and,

c. A description of the procedures to be followed in the event of a fire, including, but not limited to, procedures to contain and dispose of the oily material generated by the combustion of a large numbers of tires.

12. Upon becoming aware of a fire or an emergency that has potential off-site effects, the facility personnel shall immediately notify the Department. If the emergency occurs after normal business hours, the facility shall contact the Department through the Department's 24-Hour Emergency Response Number. Within two (2) weeks of any emergency involving potential off-site impact, the operator of the site shall submit to the Department a written report summarizing the emergency. This report shall describe the origins of the emergency, the actions that were taken to remediate the emergency, the results of the actions that were taken, and an analysis of the success or failure of the actions.

13. The operator of the facility shall maintain records of the quantity of waste tires and processed tires received at the site, stored at the site, and shipped from the site.

14. Waste tires stored indoors shall meet the same storage criteria as tires stored outdoors unless otherwise specified by the Department.

15. The storage of processed tires shall meet all of the storage criteria as stated in this Section.

16. The temperature of any above-ground piles of compacted, processed tires over one thousand (1,000) cubic yards in size shall be monitored to ensure that the temperature of the tires does not exceed 302 degrees Fahrenheit (150 degrees Celsius). Temperature control measures shall be instituted so that pile temperatures do not exceed 302 degrees Fahrenheit (150 degrees Celsius).

17. Any residuals from waste tire processing shall be managed so that the residuals are contained on-site; the residuals shall be stored temporarily and be controlled and disposed in a permitted solid waste management facility or properly recycled.

E. Application Requirements for Waste Tire Collection Facility Permits.

1. The application for a waste tire collection facility shall be on a form provided by the Department.

2. The application shall contain at a minimum the following:
 - a. Proof of ownership of the property upon which the waste tires are collected;
 - b. Site maps or other documents detailing the location and design criteria requirements of Part III.C;
 - c. An operational plan outlining the operational requirements of Part III.D;
 - d. A closure plan which shall include at a minimum the following:
 - (1) Schedule for removal of all waste, waste tires, or processed tires and residuals; and,
 - (2) Certification that all waste or processed tires remaining on site will be transported to a permitted processing or disposal facility and that closure shall be performed in accordance with Part V of this regulation; and
 - e. Documentation that the applicant has secured financial assurance in accordance with Part V of this regulation.

F. Record Keeping and Annual Reports.

1. The owner or operator of a waste tire collection facility shall record and maintain for three (3) years the following information regarding its activities:
 - a. For all waste tires and processed tires shipped from the facility, the name and waste tire hauler, registration number of the waste tire hauler who accepted the waste or processed tires for transport, the quantity of waste tires or processed tires shipped with that hauler, and the place where the waste or processed tires were deposited;
 - b. For all waste tires and processed tires received at the facility, the name and waste tire hauler registration number of the hauler who delivered the waste or processed tires to the facility, and the quantity of waste or processed tires received from that hauler; and,
 - c. For all waste tires removed for recapping, the quantity and type removed, and the name and location of the recapping facility receiving the tires.
2. The above records shall be available at the facility for inspection by Department personnel during normal business hours.
3. Owners and operators of waste tire collection facilities shall submit to the Department an annual report, by March 1, that reflects the information collected under Section F.1 above, and the information outlined below:
 - a. The facility name, address and permit number;
 - b. The calendar year covered by the report;
 - c. The total quantity and type of waste tires and processed tires received at the facility during the year covered by the report;
 - d. The total quantity and type of waste tires and processed tires shipped from the facility during the year covered by the report;
 - e. The general disposition of waste tires and processed tires; and,
 - f. The total quantity and type of waste tires and processed tires located at the facility on the first day of the calendar year.

Part IV. Waste Tire Processing Facility Requirements.

A. General Requirements for Waste Tire Processing Facilities.

1. No person shall operate a waste tire processing facility without a permit issued by the Department.
2. All waste tire processing facilities shall be operated in accordance with this regulation.
3. A waste tire processing facility shall not accept any waste tires for processing in excess of its permitted storage limit. The maximum allowable storage limit for processing facilities is thirty (30) times the daily through-put of the processing equipment used. Each waste tire or processed tire stored in excess of the permitted storage limit may be considered a separate violation of this regulation.

4. At least seventy-five (75) percent of the waste tires and processed tires that are both stored at the facility at the start of a calendar year, and are delivered to the facility during the year, shall be processed and removed from the facility during the calendar year.

5. All waste tire processing facilities shall comply with the location, design, and operational standards of this regulation unless otherwise exempted or approved by the Department.

6. A permitted solid waste management facility with less than two thousand five hundred (2500) waste tires temporarily stored on the facility premises is not required to obtain a waste tire processing permit prior to disposal, provided the waste tires are maintained in a manner that will prevent and control mosquitoes or other public health nuisances.

B. Location, Design and Operating Criteria.

1. All waste tire processing facilities shall comply with the location and design criteria of Part III.C of this regulation.

2. All waste tire processing facilities shall comply with the operating criteria of Part III.D of this regulation, unless otherwise exempted or approved by the Department.

C. Permit Requirements for Waste Tire Processing Facilities.

1. All applications for permits required by this regulation shall be submitted to the Department on forms provided by the Department. No construction of a proposed facility or equipment shall begin until all permits required by the Department are final.

2. The application for a waste tire processing facility shall be on a form provided by the Department, and shall contain at a minimum the following:

a. Proof of ownership of the property upon which the waste tire processing facility will be located;

b. Site maps or other documentation detailing the location and site design requirements of Part III.C of this regulation;

c. A plan outlining the operational requirements of Part III.D of this regulation;

d. A description of the tire processing equipment, including manufacturer's information, for determination of throughput;

e. A closure plan, which shall include at a minimum the following:

(1) A schedule for removal of all waste or processed tires and residuals; and,

(2) Certification that all waste or processed tires remaining on site will be transported to a permitted processing or disposal facility and that closure shall be performed in accordance with Part V of this regulation; and,

f. Documentation that the applicant has secured financial assurance in accordance with Part V of this regulation.

D. Record Keeping and Annual Reporting.

1. The owner or operator of a waste tire processing facility shall record and maintain for three (3) calendar years the following information regarding its activities:

a. For all waste tires and processed tires shipped from the facility, the name and waste tire hauler registration number of the waste tire hauler who accepted the waste tires or processed tires for transport, the quantity of waste tires or processed tires shipped with that hauler, and the place where the waste tires or processed tires were deposited;

b. For all waste tires and processed tires received at the facility, the name and waste tire hauler registration number of the hauler who delivered the waste tires or processed tires to the facility, and the quantity of waste tires or processed tires received from that hauler; and,

c. For all waste tires removed for recapping, the quantity and type removed, and the name and location of the recapping facility receiving the tires.

2. The above-referenced records shall be available at the site for inspection by Department personnel during normal business hours and made available by request.

3. Owners and operators of waste tire processing facilities shall submit to the Department a completed annual report, by March 1, on a form provided by the Department, that includes the information collected under Part IV. D.1 above, and the information outlined below:

- a. The facility name, address and permit number;
- b. The calendar year covered by the report;
- c. The total quantity and type of waste tires and processed tires received at the facility during the calendar year covered by the report;
- d. The total quantity and type of waste tires and processed tires shipped from the facility during the calendar year covered by the report;
- e. The general disposition of waste tires and processed tires; and,
- f. The total quantity and type of waste tires and processed tires located at the facility on the first day of the calendar year.

Part V. Financial Assurance and Closure Procedures for Permitted Facilities.

A. Financial Assurance Requirements.

1. Permitted waste tire facilities shall fund a financial assurance mechanism acceptable to the Department for completing final closure prior to accepting waste tires.

2. A final closure cost estimate, based on third party costs to complete closure by disposing of the maximum quantity of waste and processed tires at a permitted facility, shall be performed annually and adjusted annually, if necessary.

3. The financial responsibility requirements shall not apply to any local government or region comprised of local governments that owns and operates a municipal solid waste management facility, unless and until such time as federal regulations require such local governments and regions to demonstrate financial responsibility for such facilities.

4. The financial assurance shall be issued in favor of the Department and may consist of one (1) or more of the following mechanisms: surety bond, irrevocable letter of credit, insurance, trust fund, corporate financial test, or other evidence of financial responsibility assurance that is approved by the Department.

B. Closure Procedures. Waste tire collection and processing facilities shall close in accordance with the following procedures:

1. At least sixty (60) days prior to closure, written notice of intent to close and a proposed closure date shall be submitted to the Department;

2. Upon closing, immediately post closure signs at the facility;

3. All waste tires, processed tires, residuals, and any other waste at a facility shall be removed to a permitted processing or disposal facility and the waste handling areas shall be cleaned within ten (10) days of closure;

4. Within ten (10) days of closure, a Department inspection and approval of closure shall be requested; and,

5. Within sixty (60) days of closure, grade land to promote positive drainage and seed with native vegetation to prevent erosion.

C. Release of Financial Assurance. The Department shall release any remaining financial assurance upon verification by the Department that closure has been satisfactorily completed in accordance with this regulation.

HISTORY: Amended by State Register Volume 39, Issue No. 6, Doc. No. 4542, eff June 26, 2015; SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

61-107.4. Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals.

(Statutory Authority: 1976 Code §§ 44-96-10 et seq., 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024)

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Part I. General Provisions.

A. Applicability.

1. The purpose of this regulation is to establish minimum standards for the proper management of yard trimmings, land-clearing debris, and other organic material; to encourage composting and establish standards for the production of compost; and to ensure that operations are performed in a manner that is protective of public health and the environment.
2. The requirements of this regulation are not applicable to the grinding of pallets, packaging, or other industrial sources of wood residuals.

3. The requirements of this regulation are not applicable to sewage sludge or industrial sludge generated and managed on site of a wastewater treatment facility permitted under the authority of R.61-9, Water Pollution Control Permits, including sludges mixed with Category One feedstocks generated off-site of the facility.

B. Definitions.

For the purposes of this regulation, the following terms are defined as follows:

“Aerated Static Pile” means a composting process that uses a controlled air distribution system to blow or draw air through the composting mass. No agitation or turning of the composting mass is performed.

“Aerobic” means the biological decomposition of organic substances in the presence of at least five percent oxygen by volume.

“Best management practices” (BMP) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of Waters of the State.

“Buffer” means the regulatory minimum separation distance required for wood-grinding equipment, operational areas, storage areas, or boundaries of a wood-grinding or composting site to structures.

“Carbon-to-Nitrogen ratio” (“C:N Ratio”) means the quantity of total carbon (C) in relation to the quantity of total nitrogen (N) in an organic material or composting mass.

“Composite sampling” means a single sample for laboratory analysis composed of multiple, well-blended point or sub-samples uniformly distributed throughout the entire volume that, after mixing, accurately represents an average or median value of the property or trait of interest for a batch or general mass of compost.

“Compost” means the humus-like product of the process of composting.

“Compost stability” refers to a specific stage or state of organic matter during composting as characterized by the inverse measure of the potential for a material to rapidly decompose.

“Compostable” means the capability of being decomposed by natural biological processes.

“Compostable products” means manufactured items such as cups, plates, and flatware for food service or bags and packaging intended for singular use that undergoes degradation by biological processes. Only the materials that meet the relevant specifications of American Society for Testing Materials (ASTM) D6400 (plastics) or ASTM D6868 (coated papers and natural materials) shall be considered compostable products.

“Composting” means the aerobic biological decomposition of organic residuals under managed conditions and minimum time-temperature relationships resulting in compost.

“Composting mass” means the result of combining feedstocks in a formulaic recipe to achieve a Carbon-to-Nitrogen ratio, moisture content, and porosity within the mixture that facilitates rapid aerobic decomposition of the materials; the mixture of feedstocks is considered a composting mass until it meets the stability requirements of this regulation.

“Control” means having access to a property through part ownership, rental, lease, easement or other access agreement.

“Curing” means the process that follows composting in which the compost is matured to meet market conditions.

“Department” means the South Carolina Department of Environmental Services (SCDES).

“Domestic septage” means either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool, or similar treatment works that receives either commercial wastewater or industrial wastewater and does not include grease removed from a grease trap at a restaurant.

“Domestic sewage” means waste and wastewater from humans or household operations that is discharged to or otherwise enters a treatment works.

“Feedstock” means source separated, recovered organic material approved by the Department or listed in the Appendix of R.61–107.4 to be used in the production of compost, mulch, or other product.

“Finished compost” means the product of a composting mass that has met the minimum time and temperature requirements for the composting method chosen and satisfies the stability requirements and applicable quality assurance and testing requirements for finished compost found in Part III.H of this regulation.

“Generated on site” means residuals produced on the same single tax map parcel or multiple tax parcels under the same ownership or control, upon which it is managed.

“Grinding” means the act of mechanically reducing the size of organic materials.

“Hearing” means a Department proceeding that is conducted after notice by mail has been given to the permittee of facts or conduct that warrant a permit revocation and is a proceeding where the permittee is given an opportunity to show compliance with all lawful requirements for the retention of the permit.

“Industrial sludge” means the solid, semi-solid, or liquid residue generated during the treatment of industrial wastewater in a treatment works. Industrial sludge includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes, and a material derived from industrial sludge. Industrial sludge does not include ash generated during the firing of industrial sludge in an industrial sludge incinerator or grit and screenings generated during preliminary treatment of industrial wastewater in a treatment works. Industrial sludge by definition does not include sludge covered under 40 CFR 503 or R.61–9.503, Standards for the Use or Disposal of Sewage Sludge.

“Industrial solid waste” means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under subtitle C of the Resource Conservation and Recovery Act (RCRA). The term does not include employee kitchen or cafeteria residuals, packaging waste or yard-trimmings generated on site of an industrial property.

“In-process material” means ground organics that have been incorporated into a composting mass and other material that is in the process of being cured, but has not yet achieved the status of finished compost.

“In-vessel composting” means a process in which decomposing organic material is enclosed in a drum, silo, bin, tunnel, or other container for the purpose of producing compost; and in which temperature, moisture and air-borne emissions are controlled, vectors are excluded, and nuisance and odor generation minimized.

“Land-clearing debris” means material generated solely from land-clearing activities, including brush, limbs, and stumps, but does not include solid waste from agricultural or silvicultural operations.

“Manure” means the fecal and urinary excreta of livestock, poultry, or fish and may also contain bedding, spilled feed, water, soil and other substances incidental to its collection. This definition does not include excreta from household animals such as dogs and cats.

“Mulch” means the organic, non-composted product rendered by grinding Category One feedstocks.

“Municipal solid waste” means discards from residential, commercial, institutional, and industrial sources that have not been separated at the source for recycling. Industrial process waste is excluded from the wastes that comprise municipal solid waste.

“On-site” means activities performed on property under the same ownership or control where the feedstocks were grown, produced, or otherwise generated for recycling.

“Open burning” is defined to have the same meaning as used in Air Pollution Control Regulations and Standards R.61–62.1, Definitions and General Requirements, or any future amendments, and currently means any fire or smoke-producing process that is not conducted in any boiler plant, furnace, high temperature processing unit, incinerator or flare, or in any other such equipment primarily designed for the combustion of fuel or waste material.

“Open dumping” means any unpermitted disposal or landfilling activity except as specifically exempted by regulation.

“Operational Area” means the area of a wood-grinding or composting facility where equipment maintenance, material storage, material processing, composting or curing activities are performed, or as otherwise specified by permit.

“Operator” means the person responsible for the overall operation of a wood-grinding or composting facility.

“Organic” means a substance derived from living organisms.

“Pathogen” means a disease-causing organism, such as fecal coliform, Salmonella bacteria, Ascaris parasite eggs, etc.

“Person” means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.

“Porosity” means the fraction of a material or mass that is void space.

“Putrescible” means material that contains organic matter capable of decomposition by microorganisms and of such a character and proportion that it causes obnoxious odors and the capability of attracting or providing food for birds and other animals.

“Residence” means any existing structure, all or part of which is designed or used for human habitation, that has received a final permit for electricity, permanent potable water supply, permanent sewage disposal, and, if required by the local government, a certificate of occupancy.

“Residuals” means materials that have served their original, intended use and have been source separated and diverted for recycling, grinding, or composting.

“Run-off” means any rainwater not absorbed by soil, that flows over land from any part of a facility.

“Sewage sludge” means the solid, semi-solid, or liquid residue generated during the treatment of municipal wastewater or domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic or industrial sewage in a treatment works.

“Silvicultural” means produced from or pertaining to the care and cultivation of forest trees and timber, including bark and woodchips.

“Solid waste” means any garbage, refuse, or sludge from a waste treatment facility, water supply plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities. This term does not include solid or dissolved material in domestic sewage, recovered materials, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended. Also excluded from this definition are application of fertilizer and animal manure during normal agricultural operations or refuse as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste, which will not have a significant adverse impact on the environment.

“Source separated” means segregated from solid waste at the point of generation to facilitate recycling.

“Thermophilic” means a biological stage in the composting process during which microorganisms break down proteins, fats, and complex carbohydrates such as cellulose at relatively high temperatures (ranging from 113 degrees Fahrenheit to 167 degrees Fahrenheit or 45 degrees Celsius to 75 degrees Celsius).

“Turn” means to physically manipulate the compost mass in order to aerate, decrease temperatures, and increase evaporation rates.

“Unauthorized material” means any feedstock or waste material that due to its feedstock category, characteristics, or volume, causes an exempt, conditionally exempt site, or permitted facility to be in violation of this regulation or the permit conditions approved by the Department.

“Untreated wood” means raw wood or lumber that has not been chemically treated or painted.

“Vector” means a carrier that is capable of transmitting a pathogen from one organism to another including, but not limited to, flies and other insects, rodents, birds, and vermin.

“Waters of the State” means lakes, bays, sounds, ponds, impounding reservoirs, springs, artesian wells, rivers, perennial and navigable streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the State, and all other bodies of water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction. This definition does not include ephemeral or intermittent streams. This definition includes wetlands as defined in this Part.

“Wetlands” means lands that have a predominance of hydric soil, are inundated or saturated by water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, and, under normal circumstances, do support a prevalence of hydrophytic vegetation. Normal circumstances refer to the soil and hydrologic conditions that are normally present without regard to whether the vegetation has been removed. Wetlands shall be identified through the confirmation of the three wetlands criteria: hydric soil, hydrology, and hydrophytic vegetation. All three criteria shall be met for an area to be identified as wetlands. Wetlands generally include swamps, marshes, and bogs.

“Yard trimmings” means residuals consisting solely of vegetative matter resulting from maintenance or alteration of public, commercial, institutional, or residential landscapes and tends to include grass clippings, leaves, discarded plants and weeds, which have been source separated and diverted for recycling.

C. Variances.

Any request for a change to the adherence to a provision or provisions of this regulation, or to a permit issued pursuant to or in accordance with this regulation, shall be made in writing to the Department. The Department shall provide a written response to such a request.

D. Prohibitions.

1. Open dumping of land-clearing debris, yard trimmings, and other organics is prohibited.
2. Open burning of land-clearing debris, yard trimmings, and other organics is prohibited except as approved by the Department for emergency storm debris management or as allowed by Air Pollution Control Regulations and Standards R.61–62.2, Prohibition of Open Burning.

E. Violations and Penalties.

A violation of this regulation, or any permit or order issued pursuant to or in accordance with this regulation, subjects a violator to the issuance of a Department order, a civil enforcement action, or to a criminal enforcement action in accordance with S.C. Code Ann., Section 44–96–100, as amended.

F. Severability.

If, for any reason, any provision, paragraph, sentence, clause, phrase, or part of this regulation or application thereof, is declared by a court of competent jurisdiction as invalid, or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder of this regulation or its application.

Part II. Exempted and Conditionally Exempted Activities.

The feedstock categories referenced in this part of the regulation are listed and characterized in the Appendix of R.61–107.4. For the purposes of this Part, a “site” shall mean one tax map parcel or multiple contiguous tax parcels under the same ownership.

A. Exempted Activities.

The activities below are exempted from the requirements of this regulation, but shall be performed in a manner to not cause harm to human health or to the environment as determined by the Department:

1. Backyard composting, when feedstocks generated on residential property by the property owner or occupants are composted primarily for use on the same property;
2. Grinding or composting of Category One feedstocks by a person on property under their ownership or control, when the feedstocks are generated on site;
3. Acceptance, storage, grinding, or composting of only Category One feedstocks by a person on property under their ownership or control, when the combined total of unground feedstocks and in-process material on site at any given time is less than 80 cubic yards;

4. Wood grinding activities for maintenance and land-clearing activities by public agencies, public utilities, railroads, or their representatives, upon land owned or controlled by the public agency, public utility, or railroad;

5. Composting activities using only Category One and Category Two vegetative feedstocks by a person on property under their ownership or control, when the combined total of feedstocks and in-process material on site, at any given time, is less than five cubic yards;

6. Storage, grinding, and composting activities approved by the Department for emergency storm debris management at sites designated by state, county, or municipal government;

7. Composting activities or other organics management activities associated with farming operations when the material managed is produced from crops grown on a farm, and when the compost is produced primarily for use on property under the same ownership or control;

8. Limited duration events that involve processing or storage of organic residuals for distribution to the public, to include "Grinding of the Greens" and, as approved by the Department, other programs of a similar nature; and

9. Composting activities by a participant transitioning to or enrolled in the U.S. Department of Agriculture (USDA) National Organic Program, or other programs of a similar nature as approved by the Department, and the compost produced is primarily for use on property under control of the participant.

B. Conditionally Exempt Activities.

1. The following activities are exempt from the permitting requirements of this regulation, but shall comply with all requirements of this Part:

a. Management of only source separated Category One feedstocks by a person on property under their ownership or control, when the combined total of feedstocks and in-process material on site at any given time is less than 400 cubic yards.

b. Management of only source separated Category Two feedstocks or mixtures of Category One and Category Two feedstocks by a person on property under their ownership or control, when the combined total of feedstocks and in-process material on site at any given time is less than 40 cubic yards.

c. Management of only source separated Category Two feedstocks or mixtures of Category One and Category Two feedstocks generated on site of commercial, industrial, or institutional properties under the same ownership, when the combined total of feedstocks and in-process material on site at any given time is less than 400 cubic yards.

2. All materials shall be managed in a manner to not cause harm to human health or to the environment as determined by the Department.

3. A facility choosing to operate under a conditional exemption shall submit a written notice to the Department stating that it will operate under the conditional exemption requirements. Once submitted, the Department will respond to the notice in writing, either stating concurrence that the facility operation meets the conditional exemption requirements or that it does not.

a. The notice to the Department shall include completion of a Department-issued form and a site map of the facility that demonstrates compliance with required buffers and include information that will allow the Department to confirm that the proposed facility conforms to all other exemption conditions of this Part.

b. The Department shall respond in writing within fifteen (15) calendar days of receiving the notice.

c. Facilities operating prior to the effective date of the most recent amendment to this regulation shall notify the Department within ninety (90) calendar days of that effective date.

4. Conditionally exempt activities shall be performed in accordance with the minimum buffers listed below as measured from the operational area to the listed entities:

a. A minimum 200-foot buffer shall be required from the operational area to residences, schools, day-care centers, churches, hospitals, and publicly owned recreational park areas unless otherwise waived with documented consent of all property owners within the buffer and made available to the Department upon request;

- b. A minimum 50-foot buffer shall be required from property lines unless otherwise waived with documented consent of all property owners within the buffer and made available to the Department upon request;
 - c. A minimum 100-foot buffer shall be required from public and private drinking water wells.
 - 5. The Department may issue a variance to operate with less restrictive buffers when it determines that the technology and practices of the operation justify the reduction. The request shall be made in writing to the Department and the Department shall respond in writing.
 - 6. All putrescible feedstocks shall be managed to prevent the escape of liquids and to suppress odors by incorporating the feedstocks into the compost mass, an in-vessel composting unit, an air-tight container, or an enclosed building.
 - 7. Best Management Practices shall be utilized to manage stormwater and to prevent impact to Waters of the State.
 - 8. No feedstocks or other material piles may be placed or stored in standing water.
 - 9. All feedstocks and other material piles on site of the facility shall be monitored and managed to prevent fire.
 - 10. Unauthorized and unrecyclable material shall be removed from the facility for proper disposal no less than every seven (7) calendar days, except that putrescible waste shall be placed in a covered container and removed from the facility within seventy-two (72) hours.
 - 11. Compost produced by conditionally exempt facilities using Category Two feedstocks shall not be offered for sale to the public unless it can be demonstrated to meet all applicable standards for compost quality under Part III. of this regulation.
 - 12. All feedstocks shall be ground and/or incorporated into a composting mass not less than once per year. Conditionally exempt facilities operating prior to the effective date of this regulation shall have one year from the effective date of this regulation revision to comply with this requirement.
- Part III. Permitted Facilities.

The feedstock categories referenced in this part of the regulation are listed and characterized in the Appendix of R.61–107.4.

A. Facility Types.

Facilities described below shall not operate without a permit, except as specifically exempted in this regulation:

- 1. Type One facilities. Type One facilities are facilities that grind or compost only source separated organic residuals described as Category One feedstocks.
- 2. Type Two facilities. Type Two facilities are facilities that compost only source separated compostable materials described as Category Two feedstocks or mixtures of Category One and Category Two feedstocks, or any similar items specifically approved in writing by the Department.
- 3. Type Three facilities. Type Three facilities are facilities that:
 - a. Compost Category Three feedstocks or mixtures of Category Three feedstocks with other feedstock categories listed in the Appendix of R.61–107.4;
 - b. Compost feedstocks not listed in the Appendix of R.61–107.4, that pose a level of risk greater than Category Two feedstocks as determined and allowed, on a case-by-case basis, by permit from the Department; or
 - c. Produce compost using methods not specified in this regulation and as allowed on a case-by-case basis by permit from the Department.

B. General Criteria.

- 1. The siting, design, construction, operation, and closure activities for facilities shall conform to the standards set forth in this regulation, unless otherwise approved by the Department.
- 2. Facilities shall obtain the appropriate permit or permits from the Department in accordance with this regulation, prior to the construction, operation, expansion, or modification of a facility.
- 3. The Department may approve a variance from the general, location, design, or operating criteria, based upon the technology and practices of the operation.

4. All facilities shall be subject to inspections and evaluations of operations by a representative of the Department.

C. Location Criteria.

1. All facilities shall comply with the minimum buffers, listed below, from the operational area of the facility to the listed entities, as they exist at the time the permit application is received by the Department, except that an entity listed here shall be exempt from the buffer requirement to its own buildings.

a. For Type One facilities, for Type Two facilities performing in-vessel composting, or for Type Two facilities performing composting in an enclosed building, a minimum 200-foot buffer shall be required from the operational area to residences, schools, day-care centers, churches, hospitals, and publicly owned recreational park areas; for all other Type Two or for all Type Three facilities, a minimum 1,000-foot buffer shall be required.

b. For Type One facilities, a minimum 50-foot buffer shall be required from the operational area to property lines; for Type Two or Type Three facilities, the buffer shall be at least 100 feet;

c. A minimum 100-foot buffer shall be required from the operational area to any Waters of the State;

d. A minimum 100-foot buffer shall be required from the operational area to public or private drinking water wells; and

e. For Type Two or Type Three facilities, a minimum 10,000-foot buffer shall be required from the operational area to any airport runway used by turbojet aircraft and a minimum 5,000-foot buffer from any airport runway used only by piston-type aircraft, unless composting is in an enclosed building.

2. The Department may approve, with documented consent of all property owners within the buffer, less stringent buffers than those listed to residences, schools, day-care centers, churches, hospitals, publicly owned recreational park areas, and property lines.

3. The Department reserves the right to require more stringent buffers if it is determined, based on the site, feedstocks, or operations, that more stringent buffers are necessary to protect health and the environment.

4. The Department's permit decision does not supersede, affect, or prevent the enforcement of a zoning regulation or ordinance within the jurisdiction of an incorporated municipality or county, or by an agency or department of this state.

5. Local governments may require siting criteria and buffer distances that are more stringent than the state regulations.

D. Design Criteria.

1. All facilities shall be designed to divert stormwater from running onto the operational areas of a facility.

2. The operational area of all permitted Type One facilities shall have at least one foot of separation to groundwater.

3. The operational area of all permitted Type Two and Type Three facilities shall be a hard-packed all-weather surface able to withstand various temperatures and be conducive to heavy equipment operation, without damage or failure. The working surface shall be:

a. A naturally occurring or engineered soil mixture with at least two feet separation to the seasonal high-water table; or

b. A surface such as concrete or asphalt pad on an appropriate sub-base intended to support and prevent failure of the surface layer with at least one foot of separation to the seasonal high-water table from the sub-base of the constructed surface; or

c. As otherwise approved by the Department.

4. Facilities may use borings or test pits to determine separation from the seasonal high-water table.

5. The Department may impose more protective design criteria for the operational areas of Type Three facilities to ensure compatibility with the feedstocks in use and the structural integrity needed for the equipment used at the site.

6. Facility design shall be structured so that each composting mass can be managed in accordance with the operational requirements of this regulation.

7. Access to all permitted facilities shall be controlled through the use of fences, gates, berms, natural barriers, or other means to prevent unauthorized dumping and access.

E. General Operating Criteria.

1. Site Control and Sign Requirements shall be as follows:

a. No incoming waste shall be accepted by the facility unless facility personnel are present to receive the incoming waste.

b. All permitted facilities shall post signs in conspicuous places that are resistant to weather and fading of color that:

(1) Identify the owner, operator, or a contact person and telephone number in case of emergencies;

(2) Provide the hours during which the facility is open; and

(3) List the valid SCDHEC Facility I.D. number(s) for the facility.

c. Facilities may accept only those materials allowed by facility type and category as listed in the Appendix of R.61-107.4 or approved in writing by the Department.

d. No material, including feedstocks or in-process material, may be stored at the permitted facility in excess of the maximum capacity allowed by permit.

e. No facility shall accept deliveries of feedstocks or other materials that will result in materials being stored in excess of the maximum capacity allowed by permit.

2. All wood-grinding activities shall assure that no debris is ejected onto neighboring properties.

3. Facilities shall use Best Management Practices to control run-on and run-off. An appropriate permit may be required prior to the discharge of any stormwater.

4. Unauthorized feedstocks, unrecyclable materials, and waste shall be removed from the facility for proper disposal no less than every seven (7) calendar days unless otherwise approved by the Department. Unauthorized putrescibles shall immediately be placed in a covered container and removed from the facility within seventy-two (72) hours of receipt. The area designated for temporary storage of unauthorized waste at the facility shall be identified in the facility operational plan. The Department may require more frequent removal based on the nature or quantity of other unacceptable waste.

5. Reporting and Records Retention shall be in accordance with the following:

a. Not less than once each month, facilities shall measure and record the amounts, in cubic yards, of feedstocks, in-process material, finished compost, and mulch, and waste material on site at that time.

b. No later than September 1 of each year, all permitted facilities shall submit to the Department an annual report on a form approved by the Department for the prior fiscal year beginning on July 1 and ending June 30. The report shall include the following information:

(1) The total amount in tons of in-coming feedstock received yearly for each type of feedstock and the source for each;

(2) The total amount in tons of mulch, compost, or other material that on a yearly basis is:

(a) Produced;

(b) Transferred off-site as products such as mulch, compost, or soil amendment;

(c) Transferred off-site for further processing; or

(d) Disposed in a landfill and the reason for disposal.

c. Records of weekly temperature readings of mulch piles shall be maintained by all facilities for a period of no less than three (3) years and be made available at all reasonable times for inspection by the Department.

d. Changes to telephone numbers, names of responsible parties, addresses, etc. for a permitted facility shall be submitted to the Department within ten (10) business days of the change.

e. Records shall be maintained by all facilities for a period of no less than three (3) years and shall be furnished upon request to the Department or be made available during inspections by the Department.

6. Operational Plans.

All facilities shall be operated in accordance with this regulation and an operational plan developed specifically for the facility and approved by the Department in writing.

a. Facilities shall maintain an operational plan on site of the facility and it shall be made available for inspection upon request by the Department.

b. Facilities requiring permits shall submit their operational plan to the Department along with the permit application. The Department may require changes to an operational plan when the Department has determined that the operation requires additional measures to protect human health and safety and the environment.

c. Facilities shall address all requirements of this part in their operational plan, including at a minimum:

- (1) A description of the anticipated source and composition of the incoming feedstocks;
- (2) A description of the processes and methods that will be used to grind, compost, cure, store, and otherwise manage material, including a description of production capabilities and equipment to be used;
- (3) A description of the procedure for inspecting, measuring, and managing incoming feedstock and unacceptable waste;
- (4) A description of the procedures for prevention and control of vector, odor, dust, and litter specific to their geographic location and the types and amounts of feedstocks used in their operation;
- (5) A description of the anticipated markets for end products;
- (6) A quality assurance and testing plan for finished compost that describes:
 - (a) All of the parameters and protocols for obtaining, preserving, storing, and transporting samples to a South Carolina certified laboratory;
 - (b) The frequency of monitoring to assess temperature profiles during composting;
 - (c) The methods and processes used to determine stability of the compost; and
 - (d) Other protocols used to achieve quality assurance standards required in this regulation;
- (7) A fire prevention and response plan which includes:
 - (a) A description of the processes used to prevent fire, specific to their site design and operating criteria;
 - (b) A description of the procedures for responding to a fire specific to their site location, feedstock types, and operating criteria;
 - (c) The location of emergency equipment and fire suppressant materials; and
 - (d) The emergency contact information for the local fire protection agency.
- (8) A contingency plan describing facility operations in the event of equipment failure;
- (9) A detailed closure plan to meet the requirements of this regulation, including final closure cost estimate pursuant to this part; and
- (10) Any additional procedures implemented as a requirement of the Department as described in this regulation.

7. In the event of a fire at a facility, the facility must:

a. Verbally notify the appropriate regional office of the Department within twenty-four (24) hours. A written notification must be sent within seven (7) calendar days;

b. Cease accepting incoming waste or divert it to another area of the facility. If waste is diverted to another area of the facility, notification must be included as described in (a) above; and

c. Use the methods and equipment outlined in the fire prevention and response plan that is included in the operations plan approved by the Department.

F. Material Management for Permitted Facilities.

1. All piles of mulch and ground material shall be monitored and managed to prevent fire as described in the facility operational plan:
 - a. The temperature of each pile shall be measured weekly or as otherwise approved in the operational plan;
 - b. Temperature readings shall be taken every 50 feet along the length or around the circumference of a pile, at a depth of three to six feet;
 - c. Intervals and methods for monitoring temperatures and any alternatives not stated in this regulation must be included in the operational plan and approved in writing by the Department; and
 - d. A record of all temperature measurements taken shall be maintained and readily available to the Department upon request.
2. All land-clearing debris shall be ground at least once per fiscal year. Stumps or large debris that cannot be ground shall be removed from the facility for disposal or other management at least once per fiscal year.
3. All materials shall be maintained to:
 - a. Have sufficient space around piles of material to allow access of emergency fire-fighting equipment;
 - b. Have sufficient space around piles of material to allow loading or other activities described in the approved operational plan;
 - c. Allow monitoring of internal temperatures; and
 - d. Provide a safe working environment.
4. Within one (1) year of being ground, mulch and ground material must be bagged, added to a managed compost mass, transferred from the facility, or disposed of in accordance with a Department permit.
5. The working surface of the operational area of all permitted facilities shall be maintained to prevent standing water or uncontrolled releases.

G. Additional Operating Requirements for Type Two and Type Three Facilities.

1. The operation of all composting facilities shall follow acceptable management practices for composting methods that result in the aerobic, thermophilic decomposition of the solid organic constituents of the feedstock. The following composting methods will be allowed:
 - a. Passive leaf composting, in which composting leaves collected by local government programs are managed with little manipulation after they are mixed and piled; turning shall be performed at least quarterly or as needed to prevent odors;
 - b. The windrow composting method, in which the following requirements apply: Aerobic conditions at 131 degrees Fahrenheit or 55 degrees Celsius or greater shall be maintained in the composting mass for at least fifteen (15) consecutive days. During the high temperature period, the composting mass shall be turned at least five (5) times. The composting mass shall be turned before the internal temperature exceeds 160 degrees Fahrenheit or 71 degrees Celsius;
 - c. The aerated static pile composting method, in which the following requirements apply: Aerobic conditions shall be maintained during the composting process. The temperature of the composting mass shall be maintained at 131 degrees Fahrenheit or 55 degrees Celsius for at least three (3) consecutive days; or
 - d. The in-vessel composting method, in which the temperature of the composting mass shall be maintained at a minimum temperature of 131 degrees Fahrenheit or 55 degrees Celsius for at least three (3) consecutive days.
 - e. The use of other composting methods shall require written Department approval.
2. Temperature measurements shall be as follows:
 - a. The temperature of each composting mass shall be measured daily during the first week of active composting, and not less than weekly thereafter;

- b. Temperature readings shall be taken every 50 feet along the length of a composting mass and from within the center of the mass;
 - c. In-vessel composting systems shall follow the manufacturer's recommendations for monitoring temperatures during active composting;
 - d. Intervals and methods for monitoring temperatures and any alternatives not stated in this regulation must be included in the operational plan and approved in writing by the Department; and
 - e. A record of all temperature measurements taken shall be maintained and readily available to the Department upon request.
3. The moisture content in the composting mass shall be monitored regularly and managed to achieve desired results.
4. Pile sizes and spacing. All materials shall be maintained to:
- a. Allow the measurement of internal-pile temperatures of the compost mass as required;
 - b. Enable the compost mass to be turned as needed to result in the aerobic, thermophilic decomposition of the solid organic constituents of the feedstock;
 - c. Have sufficient space around the composting mass to allow loading and other activities described in the approved operational plan;
 - d. Have sufficient space around the composting mass to allow access of emergency fire-fighting equipment and procedures as described and approved in the facility operational plan; and,
 - e. Provide a safe working environment.
5. Material Management shall occur as follows:
- a. Grass clippings shall be incorporated into the composting mass within twenty-four (24) hours of arrival at a ratio of no more than one part grass to three parts chipped or ground carbon-rich material by volume;
 - b. Food residuals and other putrescible, nitrogen-rich feedstocks shall be incorporated into the compost mass the same day of receipt or stored not more than seventy-two (72) hours in closed, airtight, and leak-proof containers;
 - c. If manure is stored more than three (3) calendar days, the manure shall be stored on a concrete pad or other impervious surface and covered with an acceptable cover to prevent odors, vector attraction, and runoff. The cover should be vented properly with screen wire to let the gases escape. The edges of the cover should be properly anchored;
 - d. Category Three feedstocks shall be incorporated into the compost mass upon receipt or stored in a manner that is described in the operational plan and approved by the Department;
 - e. Source separated feedstocks shall not be combined until incorporated into the compost mass, except as described in the operational plan and approved by the Department;
 - f. Feedstocks shall be thoroughly mixed into the compost mass in accordance with a formulaic recipe that optimizes Carbon-to-Nitrogen ratios, moisture content, and porosity. Feedstocks with excessive moisture content shall be delivered onto a bed of woodchips or sawdust or otherwise managed to prevent escape of the liquids from the compost mass; and
 - g. All operations shall be performed to prevent the re-introduction of pathogens into materials that have undergone, or are in the process of, pathogen reduction.
6. Facilities shall identify any chemical changes to a feedstock, or changes to the chemical ratios of a feedstock, significant enough to alter the composting process or the quality of the compost produced, and shall request appropriate permit modifications from the Department for any operational plan changes required as a result of those changes.
7. The following information shall be maintained at all facilities that produce compost for sale or distribution to the public and made available to the Department upon request unless otherwise approved by the Department:
- a. Daily and weekly temperature readings and moisture observations of each composting mass that is formulated;

- b. Start-up dates for each composting mass that is formulated and the date for each time a composting mass is remixed or turned while composting;
 - c. Number of days required to produce the end product, by type; and
 - d. The results of all testing performed in accordance with the quality assurance requirements of this regulation and any corrective action taken to improve product quality to the standards in this regulation.
8. Any compost produced with Category Two or Category Three feedstocks and offered for sale or distribution to the public is required to meet the physical and biological standards listed in this regulation.
9. Compost Program Manager Certification shall be secured and maintained as follows:
- a. Unless otherwise approved by the Department, within eighteen (18) months of the effective date of this regulation, all permitted Type Two and Type Three facilities are required to have an operator or one or more employees classified as a manager or supervisor who is duly certified as a compost program manager.
 - b. Persons who have achieved and maintain compost manager certification by the U.S. Composting Council (USCC), the Solid Waste Association of North America (SWANA), or another Department-approved training program shall be deemed certified by the Department.
 - c. Documentation of Compost Program Manager Certification shall be maintained at all permitted Type Two and Type Three facilities and made available to the Department upon request unless otherwise approved by the Department.
- H. Quality Assurance and Testing Requirements for Finished Compost.
- 1. Any compost produced from Category Two or Category Three feedstocks and offered for sale or distribution to the public is required to meet the physical and biological standards listed in this section. Composite samples shall be collected, stored and analyzed in accordance with the procedures found in the U.S. Department of Agriculture publication "Test Methods for the Examination of Composting and Compost" (TMECC), or equivalent methodology recommended by the U.S. Environmental Protection Agency publication SW-846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods."
 - 2. Compost from Type One facilities or compost made solely from Category One feedstocks with compliant records of time and temperature monitoring are presumed to meet the standard for biological contaminants and are not required to perform laboratory testing as described in this section.
 - 3. All compost for sale or distribution to the public and produced from feedstocks other than Category One must be tested and meet the designation of Class A Exceptional Quality Compost or be designated for legal disposal, additional processing, or other use as approved by state or federal agencies having appropriate jurisdiction.
 - 4. Class A exceptional quality compost:
 - a. Contains less than two percent (2%) physical contaminants by dry weight analysis;
 - b. Has a stability index rating of stable or very stable;
 - c. Meets Class A pollutant limits found in Table 1; and
 - d. Meets standards of this regulation for pathogen reduction.

Table 1. Pollutant Standards: Maximum Allowable Concentration
(milligrams per kilogram dry weight)

Pollutant	Class A
Arsenic	41
Cadmium	39
Copper	1500
Lead	300
Mercury	17
Nickel	420
Selenium	100

5. The distribution and use of exceptional quality compost is unrestricted and the consumer shall be advised to apply the product at agronomic rates based on product analysis, except that the use and distribution of compost produced from feedstocks generated by facilities permitted pursuant to R.61–67, Standards for Wastewater Facility Construction, shall be subject to all applicable requirements of R.61–9.

6. Compost Testing Frequency. The frequency of laboratory testing for pollutants, biological contaminants, and physical contaminants shall be based on the volume of compost produced annually by the facility as indicated in Table 2:

Table 2. Compost Testing Frequency

Compost Quantity	Frequency
1–2500 tons	1 per quarter (or less as approved)
2501–6250 tons	1 per quarter
6251–17500 tons	1 per 2 months
17501 tons and above	1 per month

7. The composted product shall be analyzed for stability using methods as set forth in the USDA TMECC Section 05.08-A through Section 05.08-F and the Compost Stability Index Table 05.08–1.

8. All compost produced for sale or distribution is required by this regulation to meet the physical and biological contaminant standards in Table 3 by a testing method referenced in this regulation or an equivalent method allowed by the Department:

Table 3. Physical and Biological Contaminants Limits for Compost

Physical contaminants (man-made inerts)	Less than 2 percent dry weight basis
Biological Contaminants (pathogens)	
Fecal coliform	Less than 1,000 Most Probable Number (MPN) per gram, dry weight basis
Salmonella	Less than 3 MPN per 4 grams, dry weight basis

a. All product quality assurance testing for pollutant standards and biological contaminants required by this regulation or as requested by the Department shall be performed by a South Carolina certified laboratory and reported in a format acceptable to the Department.

b. All products marketed in South Carolina as a soil amendment or fertilizer shall be registered by the product manufacturer with the Clemson University Department of Plant Industry or as otherwise required by law.

I. Additional Requirements for Permitted Facilities.

1. The Department may impose more stringent requirements than those outlined herein when additional measures are necessary, on a case-by-case basis, to protect public health and the environment from any potentially adverse effects. These requirements include, but are not limited to:

- Analysis of individual feedstocks to identify any characteristics that may require special management or permit conditions;
- Feedstock selection; the Department may determine on a case-by-case basis that a material shall not be used as feedstock due to its pollutant content or concentration, the material variability from the source, or its potential for creating adverse environmental effects;
- Testing frequency and parameters;
- Location, design, and operating criteria;
- Monitoring and reporting, including but not limited to, monitoring of groundwater, surface water, soil, plant tissue, feedstocks and/or finished products;
- Surface or pad requirements; or

g. Other requirements as necessary such as site assessments, groundwater sampling, and corrective action when environmental contamination from a permitted facility is suspected or confirmed.

2. The permittee may request that the Department remove from the permit the additional requirements described in this part if, after two (2) years, those processes are proven to the Department to be effective, as determined by the Department. In all cases, the Department shall retain the authority to determine the effectiveness of the process and/or feedstock mixture for the protection of human health, surface water standards, and groundwater standards.

J. Financial Assurance.

1. The requirements of this section apply to all permitted facilities except those owned and operated by a local government, by a region comprised of local governments, or by state or federal government entities whose debts and liabilities are the debts and liabilities of the state or the U.S.

2. Prior to receiving a permit, applicants shall fund a financial assurance mechanism as described in R.61-107.19, SWM: Solid Waste Landfills and Structural Fill Part I.E, and approved by the Department to ensure the satisfactory closure of the facility as required by this regulation.

3. The permittee shall calculate and declare in the permit application the maximum amount in cubic yards of feedstocks, in-process material, and waste material that could be stored at the facility. A final closure cost estimate is required to provide funding for the third party costs to properly dispose of the maximum amount of material that the facility can store at any given time and perform any corrective action for soils and groundwater that the Department may require. The cost estimate shall account for tipping fees, material hauling costs, grading and seeding the site, labor, and the cost for soliciting third party bids to complete closure and restore the site to conditions acceptable to the Department.

a. The maximum capacity of a site shall be calculated in cubic yards assuming compliance with all buffers and spacing requirements. The Department shall use an average cost of disposal per ton of material in Class II landfills, as reported in the most recent Solid Waste Management Annual Report, when calculating the amount of financial assurance necessary for a site.

b. During the active life of the facility, the permittee shall annually adjust the closure cost estimate when the disposal cost estimate increases substantially based on information published in the Solid Waste Management Annual Report.

c. The permittee shall increase the closure cost estimate and the amount of financial assurance provided if changes to the closure plan disposal costs, site conditions, or other factors increase the maximum cost of closure at any time during the site's remaining active life.

d. The permittee shall increase the closure cost estimate and the amount of financial assurance provided if a release to the environment occurs to include cost of groundwater monitoring, assessment, and corrective action if the Department determines that these measures are necessary at any time during the active life of the facility. Financial assurance shall be maintained and adjusted annually until the Department agrees that environmental conditions meet applicable standards.

e. At any time during the remaining life of the facility, the permittee may reduce the closure cost estimate and the amount of financial assurance provided for proper closure if the cost estimate exceeds the maximum cost of closure. The permittee shall submit justification for the reduction of the closure cost estimate and the amount of financial assurance to the Department for review and approval.

4. The permittee shall provide continuous coverage for closure until released from financial assurance requirements.

5. The Department may take possession of a financial assurance fund for failure to complete closure in accordance with Part III.K or failure to renew or provide an alternate acceptable financial assurance mechanism.

K. Closure.

All facilities shall conduct final closure in accordance with the operational plan submitted to the Department and with the following requirements:

1. Operators of permitted facilities shall provide to the Department written notice of intent to close and their proposed closure date;

2. Upon closing, permitted facilities shall immediately post closure signs at the facility;

3. Unless otherwise approved by the Department, within ninety (90) calendar days after closing, operators shall:

- a. Remove all feedstocks, finished product, and wastes, except that mulch or Class A compost may be spread on the site to a maximum thickness of four inches if tilled into the soil prior to site stabilization;
 - b. As appropriate, grade land to promote positive drainage and stabilize the site to prevent erosion;
 - c. Appropriately manage all water collected in containment structures or ponds; and
 - d. Submit an annual report for the portion of the year during which the facility was operational, using the annual report form provided by the Department.
4. Permitted facilities with confirmed contamination shall amend its closure plan to include post-closure corrective action requirements for approval by the Department when a facility's remediation activities continue beyond a facility's closure.

5. Permitted facilities shall request that the Department inspect and approve closure. Upon Department approval of proper closure, the permittee shall be released from financial assurance requirements.

L. Permit Suspension or Revocation.

1. Whenever the Department finds that material or substantial violations demonstrate a disregard for, or inability to comply with, applicable laws or requirements, and these violations would make the continuation of the permit not in the best interest of human health and safety or the environment, the Department may, after a hearing, amend or revoke the permit as appropriate and necessary.

a. The Department shall give notice by certified mail to the permittee of facts or conduct that warrant the intended action, and

b. The permittee shall be given an opportunity to show compliance with all lawful requirements for the retention of the permit.

2. If the Department finds that public health, safety, or welfare imperatively requires emergency action, suspension of a permit may be ordered pending proceedings for revocation or other action.

3. If a suspension is issued to a permittee, it shall be issued per an order from the Department, which will direct a facility to cease operating or to cease accepting all types of feedstocks.

a. The suspension order will also include instructions for how the permitted facility can obtain compliance and a deadline by which the facility shall become compliant. Cited violations that may result in a suspension order include, but are not limited to, the following examples:

(1) A Department determination that a facility has exceeded its permitted capacity;

(2) A Department determination that a facility has not submitted to the Department the required amount of financial assurance, or the financial assurance that was submitted is no longer valid, has been cancelled, and not replaced for the facility site;

(3) A Department determination that a facility was issued a written directive or order with a deadline to become compliant but failed to do so by the communicated deadline;

(4) A Department determination that a materially false statement has been made by the facility in the application for a permit; or

(5) A Department determination that the facility has falsified or altered records that are required by this regulation.

b. The suspension shall last until the Department has determined that the facility is in compliance with its permit, applicable statutes or regulations, and/or a prior order, unless the Department designates a time that the facility's suspension will be rescinded.

c. The Department may decline to lift the permit suspension if a facility is cited for any additional violations during the initial suspension period. If a facility is cited for additional violations during the initial suspension period, the Department may only rescind the suspension after the facility achieves compliance with all violations cited by the Department.

d. All rescissions of a suspension shall be communicated to the facility by the Department in writing.

4. If, after a hearing, the Department determines that permit revocation is warranted, an administrative order revoking the permit will be issued.

Part IV. Permit Application.

A. Permit Application Process. The applicant shall submit a permit application to the Department. The permit application shall include one hard copy and one electronic copy of the following:

1. A completed and signed application form provided by the Department;
2. Tax map number for the site;
3. Proof of ownership or control of the property;
4. For Type Two or Type Three facilities, a signed statement, on a Department-provided form, from a South Carolina licensed professional engineer, certifying that the site design is compliant with the requirements of this regulation;
5. A vicinity map that shows the location of the facility and the area that is within one mile of the property boundary;
6. A site plan on a scale of not greater than 100 feet per inch that shall, at a minimum, identify the following:
 - a. The facility perimeter, the operational area, and all storage areas with measurements in feet;
 - b. Compliance with required buffers as outlined in this regulation;
 - c. Property lines, access roads, gates, fences, natural barriers, or other Department-approved means of preventing unauthorized access and dumping;
 - d. A topographical survey of the site depicting two-foot contours at a minimum, and six-inch contours for sites evaluated for consistency with the South Carolina Coastal Zone Management Plan;
 - e. A description of any Best Management Practices (BMPs) used for the management of storm water;
 - f. The location of, and distance to, any Waters of the State on site of the facility or within the buffer areas described in Part III.C;
7. An operational plan that shall contain all items as required under this regulation;
8. Any request for a variance as allowed by this regulation; and
9. A final closure cost estimate pursuant to this regulation.

B. Notice.

1. Within fifteen (15) days of submitting an application to the Department, an applicant for a prospective Type Two and/or Type Three facility shall give notice of the proposed activity. Notice shall be sent, via certified mail that a permit to operate has been applied for, to the county administrator, the county planning office, and all owners of real property as they appear on the county tax maps, as contiguous landowners of the proposed permit area, including properties that are across a road or any other right-of-way that may separate the parcels. This notice shall contain:
 - a. The name and address of the applicant;
 - b. The type of facility and what it will produce, for example, mulch, compost;
 - c. A detailed description of the location of the facility, using road numbers, street names, and landmarks, as appropriate;
 - d. A description of the feedstocks the facility will utilize;
 - e. Department locations (Central Office and appropriate Regional Office) where a copy of the permit application will be available for review during normal working hours; and
 - f. The Department address and contact name for submittal of comments and inquiries.
2. The applicant shall provide evidence of noticing as required in this regulation to the Department.
3. A comment period of not less than thirty (30) calendar days from the date of Noticing will be provided before issuance of a Department Decision.
4. Notice of the Department Decision regarding the permit application will be sent to the applicant, affected persons or interested persons who have asked to be notified, all persons who commented in

writing to the Department, and the facility's host county. The use of certified mail to send Notice of the Department's Decision shall be at the discretion of the Department unless specifically requested in writing by an interested person.

C. Application Review and Permit Decision.

1. If an applicant submits an incomplete application, the Department shall notify the applicant in writing. If the requested information is not provided within one hundred eighty (180) calendar days of receipt of the notification, the application may be considered withdrawn. The Department will notify the applicant in writing when an application is considered withdrawn.

2. The Department shall deny a permit for a facility that it determines does not meet the requirements of this regulation.

3. The Department may include additional conditions in a permit when the Department determines that the operation requires safeguards to protect human health and safety or the environment.

D. Permit Modifications.

Permit modifications must be requested in writing and may not be implemented without prior written consent from the Department. The Department may require Noticing as described in this regulation for modifications that impact the allowable feedstock categories, that impact buffers, or that the Department determines may otherwise impact adjoining properties.

E. Transfer of Ownership.

1. The Department may, upon written request, transfer a permit, as appropriate, to a new permittee where no other change in the permit is necessary.

2. The proposed new owner of a permitted facility shall, prior to the scheduled change in ownership, submit to the Department:

- a. A completed and signed application form provided by the Department;
- b. A written agreement signed by both parties indicating the intent to change ownership or operating responsibility of the facility;
- c. A disclosure statement in accordance with S.C. Code Section 44-96-300, except that local government and regions comprised of local governments are exempt from this requirement; and
- d. Documentation of financial assurance as required.

3. The Department may approve transfer of the permit to the new owner provided:

- a. The facility is in compliance with all permit requirements and with this regulation;
 - b. The new owner has agreed in writing to assume full responsibility in accordance with this regulation, the facility permit, and the approved operational plan; and
 - c. The new owner has funded an adequate financial assurance mechanism in accordance with the requirements of this regulation.
4. The previous owner shall maintain the existing financial assurance mechanism until the new owner can demonstrate financial responsibility in accordance with this regulation.

5. The new owner shall submit legal documentation of the transfer of ownership of the facility within fifteen (15) days of the actual transfer.

Part V. General Permits.

A. General Permit Issuance. The Department may issue one or more general permits for facilities described as Type One and Type Two facilities.

1. A general permit shall, at a minimum, outline the following:

- a. Noticing requirements, including Intent to Operate and public Noticing;
- b. Location, siting, and design criteria;
- c. Operating, monitoring, and reporting criteria;
- d. Financial assurance requirements; and
- e. Closure requirements.

2. A general permit pursuant to this Section may be issued, modified, or terminated in accordance with applicable requirements, terms, and conditions of this regulation.

3. The Department shall publish a notice of any general permit issued, modified, or terminated.

B. Application for Coverage under a General Permit.

1. An operator seeking coverage under a General Permit shall request approval from the Department with a completed Notice of Intent form provided by the Department.

2. A Notice of Intent shall include signatures of the permit applicant and of the landowner, a signed certification that operations will be conducted in accordance with the General Permit, and evidence that the applicant has secured a financial assurance mechanism in accordance with the requirements of this regulation.

3. The applicant shall also provide a copy of the Notice of Intent to the appropriate local government.

4. A facility may begin operating under a General Permit after a written approval from the Department has been received by the facility operator. Written approval shall not be issued less than thirty (30) days of the date of submission of the Notice of Intent.

C. Corrective Measures and General Permit Revocation.

1. Upon a determination by the Department and written notification that the facility operating under a general permit poses an actual or potential threat to human health or the environment, the Department may require the permittee to implement corrective measures as appropriate.

2. Approval to operate under a General Permit may be revoked for failure to comply with the conditions of the General Permit or this regulation.

a. Whenever the Department finds that material or substantial violations demonstrate a disregard for, or inability to comply with a general permit, and that these violations would make continuation of the approval to operate under a general permit not in the best interest of human health and safety or the environment, the Department may, after a hearing, revoke the approval to operate as appropriate and necessary.

b. For the purposes of this regulation, "hearing" means a conference between the Department and a permittee, during which the permittee is given opportunity to respond to a written notice of alleged violation, and may be accompanied by legal and/or technical counsel, at the conference.

c. If, after a hearing, the Department determines that approval to operate under authority of a general permit should be revoked, an administrative order revoking the approval will be issued.

61-107.4 Appendix: Feedstock Categories

A. Feedstock Categories.

This Appendix defines categories of common organic feedstocks for composting. The feedstock characteristics of Carbon-to-Nitrogen ratio, moisture, pathogen content, source variability, non-compostable contaminants, trace metals, and toxic metals content are considered when assessing appropriate facility design features and quality assurance monitoring necessary to produce beneficial products in an environmentally protective process. The Department will use these characteristics to assign the category and level of risk posed for any feedstock not listed here. Any mixture of feedstocks for composting shall assume the level of risk for the most problematic feedstock in the mixture.

1. Feedstock Category One.

Category One feedstocks have a high Carbon-to-Nitrogen ratio and pose limited risk of contamination from pathogens, trace metals, hazardous constituents, or physical contaminants that are not compostable. These feedstocks also have low moisture content. Grass clippings have a lower Carbon-to-Nitrogen ratio than other Category One feedstocks, but are included in this category because they are commonly collected with leaf and limb debris. This category includes only:

a. Yard trimmings, leaves, and grass clippings;

b. Land-clearing debris;

c. Wood, woodchips, and sawdust, from untreated and unpainted wood that has not been in direct contact with hazardous constituents;

d. Agricultural crop field residuals;

e. Compostable bags commonly used for collecting and transporting yard trimmings, leaves, and grass clippings; and

- f. Similar materials as specifically approved in writing by the Department.

2. Feedstock Category Two.

Category Two feedstocks have a lower Carbon-to-Nitrogen ratio than Category One feedstocks, have a high moisture content, and are more likely to contain pathogens, trace metals, or physical contaminants that are not compostable. This category includes only the following source-separated materials:

- a. Non-meat food processing wastes, including marine shells and dairy processing wastes;
- b. Produce and non-meat food preparation residuals generated by wholesale or retail sales establishments or food service establishments;
- c. Plate scrapings including cooked meats generated by food service establishments;
- d. Manufactured compostable products and waste paper products that are otherwise unsuitable for recycling;
- e. Animal manures and materials incidental to its collection as defined in this regulation;
- f. Residual organics from anaerobic digesters or other waste-to-energy conversion processes utilizing only Category One or Category Two feedstocks; and
- g. Industrial wastes/sludges that meet the waste characterization requirements found in R.61–107.19, Part IV, Section A for disposal into a Class II Landfill; and
- h. Similar materials as specifically approved in writing by the Department.

3. Feedstock Category Three.

This category includes feedstocks that have the most risk from trace metals, source variability, physical contaminants, pathogens, and other properties that may be detrimental to plants, soils, or living organisms in high concentrations. These feedstocks require more intensive analysis and monitoring prior to being incorporated into the active composting area and require approval for composting by the Department on a case-by-case basis. This category includes:

- a. Sewage sludge;
- b. Industrial sludges, except as specifically identified in Section A.2 of this Appendix;
- c. Drinking water treatment sludge;
- d. Fats, oils, and greases (FOG);
- e. Animal-derived residuals except as specifically identified in Section A.2 of this Appendix;
- f. Residual organics from anaerobic digesters or other waste-to-energy conversion processes utilizing Category Three feedstocks;
- g. Other industrially produced non-hazardous organic residuals not previously categorized in this Appendix; and
- h. Other organic materials not prohibited below, as approved by the Department.

B. Prohibited Feedstocks. Composting of materials containing the following items is not allowable under this regulation:

- 1. Municipal solid waste, except those activities under which after a two-year period of operation in compliance with a permit issued under authority of R.61–107.10, SWM: Research, Development, and Demonstration Permit Criteria, have been determined by the Department to have adequately achieved their objectives and satisfactorily protected public health, safety, and the environment;
- 2. Friable and non-friable asbestos as defined by R.61–86.1, Standards Of Performance For Asbestos Projects;
- 3. Biomedical or infectious wastes as defined by R.61–105, Infectious Waste Management;
- 4. Hazardous waste as defined by Resource Conservation and Recovery Act (RCRA), Public Law 94–580, and R.61–79, Hazardous Waste Management Regulations, promulgated pursuant to the South Carolina Hazardous Waste Management Act (SCHWMA), as amended, S.C. Code Ann. Sections 44–56–10 et seq.;
- 5. Materials for compost or mulch production that contain or are contaminated with Polychlorinated biphenyl (PCB) where concentrations are greater than quantifiable detection limits;

6. Source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended;
7. Radioactive material managed pursuant to R.61–63, Radiological Materials (Title A); and
8. Materials resulting from coal combustion, including but not limited to, fly ash, bottom ash, boiler slag, and flue gas desulfurization materials.

HISTORY: Amended by State Register Volume 38, Issue No. 6, Doc. No. 4432, eff June 27, 2014; SCSR 45–5 Doc. No. 5003, eff May 28, 2021; SCSR 49–5 Doc. No. 5328, eff May 23, 2025.

61–107.5. Solid Waste Management: Collection, Temporary Storage, and Transportation of Municipal Solid Waste.

(Statutory Authority: 1976 Code §§ 44–96–370, 44–96–450, 48–1–10 et seq., 48–6–10 et seq., and 2023 Act No. 60, effective July 1, 2024)

A. Applicability.

1. This regulation is to establish minimum standards for the collection, temporary storage, and transportation of solid waste prior to processing, disposal, etc. of that waste. This regulation applies to any person who collects, temporarily stores, and/or transports municipal solid waste. Recovered materials are not subject to the requirements of this regulation.
2. Facilities collecting, temporarily storing, and transporting industrial solid waste generated solely in the course of normal operations on property under the same ownership or control as the facility are exempt from the requirements of this regulation.

B. Definitions.

1. “Collection” means the act of picking up solid waste materials from homes, businesses, governmental agencies, institutions, or industrial sites.
2. “Department” means the South Carolina Department of Environmental Services.
3. “Discharge” means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of solid waste, including leachate, into or on any land or water.
4. “Flood plain” means the lowland and relatively flat areas adjoining inland and coastal areas of the mainland and off-shore islands including, at a minimum, areas subject to a one percent or greater chance of flooding in any given year.
5. “Industrial solid waste” means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under subtitle C of RCRA. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.
6. “Leachate” means the liquid that has percolated through or drained from solid waste or other man-emplaced materials and that contains soluble, partially soluble, or miscible components removed from such waste.
7. “Municipal solid waste” means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas), generated by commercial establishments (stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding industrial facilities) and nonhazardous sludge.
8. “Nonputrescible” means solid waste that contains no putrescible waste.
9. “Person” means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.
10. “Putrescible” means solid waste composed of items, such as foods, that will decompose and rot to produce a foul smelling odor.

11. "Recovered materials" means those materials which have known use, reuse, or recycling potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials when recycled or transferred to a different site for recycling in an amount which does not equal at least seventy-five percent by weight of materials received during the previous calendar year.

12. "Solid waste" means any garbage, refuse, or sludge from a waste treatment facility, water supply plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities. This term does not include solid or dissolved material in domestic sewage, recovered materials, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1964, as amended. Also excluded from this definition are application of fertilizer and animal manure during normal agricultural operations or refuse as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste, which will not have a significant adverse impact on the environment.

13. "Solid waste storage container" as defined by this Regulation means large receptacles, e.g., green boxes, dumpsters, rolloff containers, which are used as a central collection point for the temporary storage of solid waste. This definition does not apply to storage containers used by a single family unit or to litter receptacles which are regulated under Code Section 16-11-700. Any solid waste storage container used at a food service facility, e.g. restaurants, etc., regardless of size, is subject to the requirements of this regulation.

14. "Temporary storage" as defined by this Regulation means the containment of solid waste for a period of not more than seven (7) days prior to the ultimate disposal of the waste, e.g., green boxes are used for temporary storage of solid waste.

15. "Vector" means a carrier that is capable of transmitting a pathogen from one organism to another including, but not limited to, flies and other insects, rodents, birds, and vermin.

16. "Vehicle" means any motor vehicle, water vessel, railroad car, airplane, or other means of transporting solid waste.

17. "Waters of the State" means lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits, and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction.

C. General Provisions.

1. The collection, temporary storage and transporting of municipal solid waste shall be conducted in a manner to:

- a. Inhibit the harborage of flies, rodents, and other vectors;
- b. Prevent conditions for transmission of diseases to man or animals;
- c. Prevent blowing debris and particulates so as not to be injurious to human health and the environment;
- d. Prevent water pollution and prevent the escape of solid waste or leachate to waters of the State; and,
- e. Minimize objectionable odors, dust, unsightliness, and aesthetically objectionable conditions, and prevent the accumulation of materials in an untidy and unsafe manner so as to become a fire and safety hazard.

2. The collection, temporary storage and transportation of solid waste shall comply with all other State and local laws, ordinances, rules, regulations, and orders.

3. When putrescible waste is mingled with other solid waste, the entire load of solid waste shall be considered putrescible waste.

D. Collection of Municipal Solid Waste.

1. Organized collection, e.g., drop-off centers, convenience centers, green boxes, curbside, etc., of putrescible solid waste shall be at a frequency which ensures the prevention of hazards and nuisances to health and the environment. Curbside collection of putrescible waste from residences shall be no less often than one (1) day per week. Collection from solid waste storage containers for putrescible waste from residences, food service facilities, e.g., restaurants, etc., shall be no less often than two (2) days per week unless an extension is requested and approved by the Department. If the potential for nuisances and/or hazards to health and/or the environment are detected, the Department may require more frequent collection. Collection of putrescible solid waste from food service facilities, e.g., restaurants, etc., may require daily collection to ensure the prevention of hazards and nuisances.

2. Organized collection of nonputrescible municipal solid waste shall be at a frequency which ensures the prevention of hazards and nuisances to health and the environment, but no less often than one (1) day per week unless an extension is requested and approved by the Department. This weekly collection requirement does not apply to construction and demolition debris.

3. Collectors shall ultimately dispose of solid waste at facilities and/or sites permitted or registered by the Department for processing or disposal of that waste stream.

E. Municipal Solid Waste Storage Containers.

1. Municipal solid waste storage containers shall be properly maintained to inhibit the harborage of vectors and to minimize objectionable odors.

2. Municipal solid waste storage containers shall be of construction which is readily cleanable with proper drainage to prevent pooling of water.

3. Areas around municipal solid waste storage containers shall be properly maintained to prevent hazards to health and the environment. Collectors shall be responsible for cleaning up refuse spilled during collection. Residents, businesses and industries shall be responsible for keeping the area clean.

4. Municipal solid waste storage containers shall not be closer than fifty (50) feet horizontal distance from the normal highwater mark of any waters of the State unless special provision is made which prevents wastes, or drainage therefrom, from entering waters of the State.

5. Whenever possible, municipal solid waste storage containers shall not be located in a 100-year flood plain. Municipal solid waste storage containers located in a 100-year flood plain shall demonstrate that the container will not restrict the flow of the 100-year flood.

6. Municipal solid waste storage containers shall not be located within 100 feet of a ground water well.

F. Municipal Solid Waste Collection and Transportation Vehicles.

1. All vehicles used to collect and/or transport municipal solid waste shall be constructed and maintained so as to prevent dropping, sifting, or blowing or other escapement of solid waste from the vehicle.

2. Precautions shall be taken to prevent spillage or leakage during transport from all vehicles used to collect and/or transport municipal solid wastes that produce leachate.

3. All vehicles used to collect and/or transport putrescible solid wastes shall be emptied on a daily basis, unless an exemption is requested and approved by the Department.

4. Collection and transportation vehicles or other devices used in transporting putrescible solid waste shall be cleaned and maintained as often as necessary to prevent odors, insects, rodents, or other nuisance conditions.

5. The disposal of the waste water from the routine cleaning of municipal solid waste collection and transportation vehicles, i.e., the areas of the vehicle that come into contact with solid waste, shall be approved by the Department's Bureau of Water Pollution Control and the appropriate sewer system, if applicable, prior to disposal. Vehicles used only for the collection of inert waste, yard trash and land clearing debris are exempt from this subsection.

G. Violations and Penalties.

A violation of this regulation or any permit, order, or standard subjects the person to the issuance of a Department order, or to civil enforcement action in accordance with Code Section 48-1-330, or 44-96-450. Willful violation of this regulation or any permit, order, or standard subjects the person to the issuance of a Department order, or to criminal enforcement action in accordance with Code Section 48-1-320, or 44-96-450. A person to whom an order is issued may appeal it as a contested case pursuant to R.61-72 and the Administrative Procedures Act.

H. Severability.

Should any section, paragraph, sentence, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

HISTORY: Amended by SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

61-107.6. Solid Waste Management: Solid Waste Processing Facilities.

(Statutory Authority: 1976 Code §§ 44-96-290, 44-96-300, 44-96-360, 44-96-400, 44-96-450, 44-96-460, 48-1-10 et seq., 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024)

A. Applicability.

1. This regulation establishes the procedures, documentation, and other requirements which must be met for the proper operation and management of all solid waste processing facilities, including the processing activities involving the unrecoverable solid waste at a Materials Recovery Facility. However, this regulation does not apply to Recovered Materials Processing Facilities.

2. Waste tire processing facilities and composting facilities shall comply with their respective regulations, unless otherwise specified by the Department.

3. Solid waste management facilities commonly referred to as “drop-off centers” or “convenience centers”, designed for the receipt of solid waste, from personal, non-commercial vehicles, destined for delivery of such waste to another Solid Waste Management Facility (e.g. recycling, processing, treatment, disposal) will not be regulated as solid waste processing facilities.

4. Facilities processing solid waste generated in the course of normal operations on property under the same ownership or control as the solid waste processing facility are exempt from the requirements of this regulation.

B. Definitions.

1. “Applicant” means an individual, corporation, partnership, business association, or government entity that applies for the issuance, transfer, or modification of a permit under this regulation.

2. “Closure” means the discontinuance of operation by ceasing to accept, treat, store, or dispose of solid waste in a manner which minimizes the need for further maintenance and protects human health and the environment.

3. “Contingency plan” means a document acceptable to the Department setting out an organized, planned, and coordinated course of action to be followed at or by the facility in case of a fire, explosions, or other incident that could threaten human health and safety or the environment.

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

5. “Disclosure statement” means a sworn statement or affirmation, the form and content of which shall be determined by the Department as required by Code Section 44-96-300.

6. “Financial responsibility mechanism” means a mechanism designed to demonstrate that sufficient funds will be available to meet specific environmental protection needs of solid waste management facilities. Available financial responsibility mechanisms include, but are not limited to, insurance, trust funds, surety bonds, letters of credit, personal bonds, certificates of deposit, financial tests, and corporate guarantees as determined by the Department by regulation.

7. “Flood plain” means the lowland and relatively flat areas adjoining inland and coastal areas of the mainland and off-shore islands including, at a minimum, areas subject to a one percent or greater chance of flooding in any given year.

8. “Industrial solid waste” means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under subtitle C of RCRA. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation;

fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

9. "Leachate" means the liquid that has percolated through or drained from solid waste or other man-emplaced materials and that contains soluble, partially soluble, or miscible components removed from such waste.

10. "Materials recovery facility" means a solid waste management facility that provides for the extraction from solid waste of recoverable materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials.

11. "Municipal solid waste" means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas), generated by commercial establishments (stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding industrial facilities) and nonhazardous sludge.

12. "Owner/Operator" means the person who owns the land on which a solid waste management facility is located or the person who is responsible for the overall operation of the facility, or both.

13. "Permit" means the process by which the Department can ensure cognizance of, as well as control over, the management of solid wastes.

14. "Person" means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.

15. "Recovered materials" means those materials which have known use, reuse, or recycling potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials when recycled or transferred to a different site for recycling in an amount which does not equal at least seventy-five (75) percent by weight of materials received during the previous calendar year.

16. "Recovered materials processing facility" means a facility engaged solely in the recycling, storage, processing, and resale or reuse of recovered materials. The term does not include a solid waste handling facility; however, any solid waste generated by such facility is subject to all applicable laws and regulations relating to the solid waste.

17. "Solid waste" means any garbage, refuse, or sludge from a waste treatment facility, water supply plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities. This term does not include solid or dissolved material in domestic sewage, recovered materials, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1964, as amended. Also excluded from this definition are application of fertilizer and animal manure during normal agricultural operations or refuse as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste, which will not have a significant adverse impact on the environment.

18. "Solid waste handling facility" means any facility engaged in the handling of solid waste.

19. "Solid waste management facility" means any solid waste disposal area, volume reduction plant, transfer station, or other facility, the purpose of which is the storage, collection, transportation, treatment, utilization, processing, recycling, or disposal, or any combination thereof, of solid waste. The term does not include a recovered materials processing facility or facilities which use or ship recovered materials, except that portion of the facilities which is managing solid waste.

20. "Solid waste processing facility" means a combination of structures, machinery, or devices utilized to reduce or alter the volume, chemical, or physical characteristics of solid waste through

processes, such as baling or shredding, prior to delivery of such waste to a recycling or resource recovery facility or to a solid waste treatment, storage, or disposal facility and excludes collection vehicles.

21. "Surface water" means lakes, bays, sounds, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within territorial limits, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private.

22. "Vector" means a carrier that is capable of transmitting a pathogen from one organism to another including, but not limited to, flies and other insects, rodents, birds, and vermin.

C. General Provisions.

1. The siting, design, construction, operation, closure, and post-closure activities of new or expanding solid waste processing facilities shall conform to the standards set forth in this regulation. The Department may, on a case by case basis, allow variances to the siting, design, construction, operation, closure, and post-closure requirements found in this regulation, for wastes regulated under R.61-107.11 only.

2. Within six (6) months of the effective date of this regulation, all owners and/or operators of existing solid waste processing facilities shall submit, to the Department, as-built plans of the existing facility.

3. Within twelve (12) months of the effective date of this regulation, existing facilities which receive solid waste for processing shall be required to conform with these regulations, unless otherwise approved by the Department.

4. The Department shall require a disclosure statement from the permit applicant in accordance with Code Section 44-96-300. Local governments and regions comprised of local governments are exempt from this requirement. The Department may accept one (1) disclosure statement for multiple facility permit applicants.

5. A permit shall be required for each site or facility although the Department may include one (1) or more different types of facilities in a single permit if the facilities are collocated on the same site.

6. Waste tire processing facilities and composting facilities shall comply with their respective regulations, unless otherwise specified by the Department.

7. The permittee of a solid waste processing facility shall notify the Department prior to transfer of ownership or operation of the facility during its operating life or during the post-closure care period. The Department will approve a reissuance of the permit to the new owner provided that the facility is in compliance and the new owner agrees in writing to assume responsibility in accordance with these regulations.

D. Permit Application Requirements and Design Criteria.

1. Prior to construction, modification, or operation of a solid waste processing facility a permit shall be obtained from the Department. The application shall be signed by an engineer duly licensed and registered under the laws of the State of South Carolina.

2. Any person wishing to obtain a permit from the Department to operate a solid waste processing facility, shall submit to the Department three (3) copies of the following documents:

- a. A completed permit application, on a form provided by the Department;
- b. An engineering report which shall include the following:
 - (1) an overall description of the facility;
 - (2) a description of the process and equipment to be used;
 - (3) a description of the proposed service area;
 - (4) a description of the types and quantities of waste to be processed;
 - (5) a description of the existing site;
 - (6) a description of the security measures, including but not limited to fences, gates, signs; and,
 - (7) the location of disposal or recycling facilities which will accept the processed waste;

- c. Complete construction plans and specifications that at a minimum address the following:
 - (1) loading and unloading areas;
 - (2) access roads;
 - (3) processing areas;
 - (4) actual or calculated weight of all solid waste accepted at the facility;
 - (5) storage areas for incoming solid waste; and,
 - (6) a map showing the specific location, land use, and zoning within one-fourth ($\frac{1}{4}$) mile of the boundaries of the proposed facility;
- d. All tipping areas shall be located within an enclosed building or covered area and all waste shall be contained in the tipping area.
- e. A design report for the facility which shall provide the technical details and specifications necessary to support the design plans;
- f. A complete description of the personnel training program;
- g. An identification of possible air releases and groundwater and surface water discharges that may occur;
- h. A waste control plan describing the manner in which waste from the processing activities will be managed. The plan shall, at a minimum, address the following:
 - (1) ensure that the facility processes only waste specifically authorized by the Department;
 - (2) provide a program to identify, control, separate out, record, and prevent waste not authorized by the Department to be processed at the facility from being accepted at the facility. The plan shall include a description of how these wastes will be handled and disposed if received at the facility and shall include provisions to notify the Department by inclusion in the annual monitoring report of the receipt and disposal of such wastes. No permit will be issued until a waste control plan has been approved by the Department; and,
 - (3) identify the facilities approved by the Department that will receive the processed waste and a certification that such facilities have adequate capacity to manage the processed waste;
- i. A quality assurance and quality control report. The facility owner or operator shall institute a control program (including measures such as signs, monitoring, alternate collection programs, passage of local laws, etc.) to assure that only solid waste authorized by the Department is being processed at the facility;
- j. A written contingency plan. This plan shall set forth operating procedures to be employed during periods of non-operation (e.g. equipment breakdown) which will require standby equipment, extension of operating hours, or diversion of solid waste to other facilities;
- k. A narrative description of the general operating plan for the facility, including the origin, composition and weight or volume of solid waste that is to be processed at the facility, the process to be used at the facility, the daily operational methodology of the process, the loading rate, the proposed capacity of the facility and the expected life of the facility. The plan shall include a descriptive statement of any materials recycling or reclamation activities to be operated in conjunction with the facility on incoming solid waste. The plan shall describe how the facility will meet all applicable regulatory requirements;
- l. An operation and maintenance manual describing how the facility shall be maintained and operated in accordance with the intended use of the facility. Equipment in use at the facility shall be maintained in good working order;
- m. A detailed closure plan which shall identify the steps necessary to close the facility. The plan may be amended at any time during the active life of the facility with Department approval. The plan shall be amended whenever changes in operating plans or facility design affect the closure plan, or whenever there is a change in the expected year of closure;
- n. A description and explanation of any restrictions the facility places on the materials it receives for processing; and,
- o. A demonstration of financial responsibility. The owner or operator of each facility shall establish sufficient financial assurance to ensure satisfactory maintenance, closure, and post-closure

of the facility; or to carry out any corrective action which may be required as a condition of a permit. Consideration shall be given to mechanisms which would provide flexibility to the owner or operator in meeting its financial obligations. The owner or operator shall be allowed to use combined financial responsibility mechanisms for a single facility and shall be allowed to use combined financial responsibility mechanisms for multiple facilities, utilizing actuarially sound risk-spreading techniques.

Local governments are exempt from this requirement until such time as federal regulations require local governments or regions to demonstrate financial responsibilities for such facilities and the Department promulgates regulations addressing this issue.

E. Location Requirements.

Location requirements addressed in this section apply to all solid waste processing facilities, unless otherwise approved by the Department.

1. Solid waste processing facilities shall be adjacent to or have direct access to roads which are of all weather construction and capable of withstanding anticipated load limits.

2. Solid waste processing facilities located in 100-year floodplains shall demonstrate that the facility will not restrict the flow of the 100-year flood.

3. The active waste handling area of a solid waste processing facility shall not be located within two hundred (200) feet of any surface water, excluding drainage ditches and sedimentation ponds.

4. A solid waste processing facility shall not be located within any wetlands as delineated and defined specifically as wetlands according to the methodology accepted by the U. S. Army Corps of Engineers and the U. S. Environmental Protection Agency.

5. The active waste handling area of a solid waste processing facility, shall not extend closer than one hundred (100) feet to any drinking water well.

6. Locations shall allow for sufficient room to minimize traffic congestion and allow for safe operation.

7. No solid waste processing unit shall extend closer than one hundred (100) feet to any property line.

8. The active waste handling area of a solid waste processing facility, shall not extend closer than two hundred (200) feet to residences, schools, hospitals and recreational park areas.

9. Facilities shall adhere to all Federal, State, and local zoning, land use and other applicable local ordinances.

F. Operations Criteria.

A solid waste processing facility shall be designed and operated according to the minimum criteria listed in this section.

1. Access Controls. The operator shall restrict the presence of, and shall minimize the possibility of any unauthorized entry onto the facility site. A statement of the days and hours of operation shall be posted at the entrance of the facility and access, except for Department and/or emergency personnel, shall be limited to those times when authorized personnel are on duty.

2. Reporting and Record Keeping Requirements. All facilities shall:

a. Notify the Department's District Director, in the district in which the facility is located, if an unscheduled total facility shutdown exceeds twenty-four (24) hours;

b. Prepare and submit to the Department an annual report in a form provided by or acceptable to the Department by October 15, for the previous fiscal year; and,

c. Maintain a copy of all required reports at the facility for a period not less than five (5) years, and make these reports available to Department personnel upon request.

3. Receipt and Handling of Solid Waste.

a. The facility is authorized to process only solid waste specified by Department permit. The weight and/or volume of all solid waste processed at the facility shall be recorded and incorporated into the annual report.

b. All delivered solid waste shall be processed and contained at a facility designed in a way to minimize the effects of weather, wind, and precipitation. External storage of putrescible solid waste

is prohibited. No putrescible waste shall remain at the site at the end of each working day unless it is stored in a manner to promote vector control. Solid waste identified as nonputrescible recyclables or oversized, bulky, or untreatable solid waste may be temporarily stored outside, on the premises for a period not to exceed one (1) week unless an extension is requested and approved by the Department. Any solid waste that is stockpiled or remains in storage shall be maintained so as to not create a nuisance or a sanitary or environmental problem. Litter, odors, rats, insects, flies, mosquitos, and other vectors shall be prevented and controlled at the facility.

c. The tipping areas shall be constructed of low permeability materials (e.g. concrete, asphalt), provided with a water supply for cleaning purposes, and equipped with drains, pumps, or equivalent means to facilitate the removal of water for proper disposal.

d. The transfer structures, buildings, and ramps shall be constructed of materials that can be easily cleaned.

e. Leachate and washwater from a solid waste processing facility shall not be allowed to drain or discharge into waters of the State unless an effluent disposal permit (e.g. land application, or NPDES) is approved by the Department.

f. Solid waste processing facilities shall comply with all applicable Federal, State, and local air quality standards.

g. The processing facility shall arrange for delivery of any residual or other waste resulting from the processing to a disposal facility which is:

(1) permitted by the Department if located in South Carolina; or,

(2) permitted by the appropriate environmental regulatory agency if located in another state.

4. Process changes. The owner or operator shall receive approval from the Department in writing of all process changes before they are implemented. Process changes such as those made to increase the recovery of recyclable materials do not require approval. Permit modifications shall be required as deemed necessary by the Department.

5. Emergency preparedness. In addition to requirements set forth in the contingency plan, all processing facilities shall at a minimum:

a. Provide adequate aisle space to allow for emergency equipment;

b. Be equipped with the following:

(1) an internal communications system capable of providing immediate emergency instruction to facility personnel and an alarm system to notify facility personnel of an emergency condition;

(2) a device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, and State or local emergency response teams;

(3) portable fire extinguishers, fire control equipment and spill control equipment; and,

(4) water available at adequate volume and pressure to supply water hose streams, automatic sprinklers, or water spray systems;

c. Test and maintain as necessary to assure its proper operation, all facility emergency equipment including, but not limited to, communications or alarm systems, fire protection equipment, spill control equipment, and personal safety equipment;

d. Provide immediate access for all personnel involved in the facility operation to an internal alarm or emergency communication device; and,

e. Provide for an emergency coordinator.

6. Guidelines for identifying items or materials that may not be accepted for processing. The guidelines shall ensure that the facility accepts and processes only waste specifically authorized by the Department to be processed at the facility.

7. Trained personnel shall be present at all times during the operation of the facility.

G. Monitoring and Reporting Requirements.

1. Should the Department confirm environmental and/or health problems associated with the facility, monitoring (including groundwater, surface water, and air quality monitoring and analyses,

and product quality testing and analysis) may be required by the Department, as appropriate, and based on a case by case evaluation to ensure protection of the environment.

2. An annual report shall be submitted to the Department, by October 15, which includes at a minimum, the following information:

- a. Sources, type, and total quantity in weight and/or volume of waste received at the facility for the previous year;
- b. A description of the method and quantity of the distribution and/or disposal of the end product;
- c. A description of the method and quantity of the distribution and/or disposal of unauthorized waste received at the facility;
- d. The county in which the solid waste originated, or if the waste originated outside South Carolina, the county and the state; and,
- e. The transporters of waste.

3. Records of all monitoring and reporting information shall be maintained for a minimum of at least five (5) years from the sample or measurement date, unless otherwise specified by the Department.

H. Closure and Post-Closure Procedures.

1. Financial Assurance.

Facilities shall fund a financial responsibility mechanism acceptable to the Department to ensure the satisfactory closure and post-closure care prior to accepting waste. A final closure cost estimate, based on third party costs to complete closure by disposing of the maximum quantity of material at a facility shall be calculated annually and adjusted annually, if necessary. Local governments are exempt from this requirement until such time as federal regulations require such local governments or regions to demonstrate financial responsibility for such facilities and the Department promulgates regulations addressing this issue.

2. Closure and Post-Closure Care Procedures.

Closure and post-closure procedures addressed in this section apply to all solid waste processing facilities.

- a. At least sixty (60) days prior to closure, provide written notice of intent to close and a proposed closure date to the Department. The final quantity of solid waste shall be received no less than thirty (30) days prior to closure date.
- b. Upon closing, the owner or operator shall immediately remove all solid waste and post signs at the facility which state that the facility is no longer in operation.
- c. Within thirty (30) days after receiving the final quantity of solid waste, the owner or operator shall remove all solid waste and shall remove or treat all waste residues, contaminated soils and equipment in accordance with the approved closure plan, and notify the Department upon completion.
- d. After receiving notification that the facility closure is complete, the Department will conduct an inspection of the facility. If all procedures have been correctly completed, the Department will approve the closure in writing, at which time the Department permit shall be terminated.
- e. If the owner or operator demonstrates that not all contaminated soils can be practicably removed or treated, to below applicable standards, as required in paragraph (b) of this section, then the owner or operator shall submit for Department approval, a post-closure care plan.

I. Personnel Training Requirements.

Solid waste processing facility personnel training programs shall, at a minimum:

1. [Reserved]
2. identify the positions which will require training and a knowledge of the procedures, equipment, and processes at the facility;
3. describe how facility personnel will be trained to perform their duties in a way that ensures the facility's compliance with the regulations, including the proper procedures that shall be followed in

the processing and handling of solid waste not authorized by the Department to be received at the facility; and,

4. be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency and safety equipment, emergency procedures and emergency systems.

J. Corrective Action Requirements.

If at any time, the Department determines that the solid waste processing facility poses an actual or potential threat to human health or the environment, the owner or operator shall implement a corrective action program reviewed and approved by the Department.

K. Violations and Penalties.

A violation of this regulation or any permit, order, or standard subjects the person to the issuance of a Department order, or to civil enforcement action in accordance with Code Section 48-1-330, or 44-96-450. Willful violation of this regulation or any permit, order, or standard subjects the person to the issuance of a Department order, or to criminal enforcement action in accordance with Code Section 48-1-320, or 44-96-450. A person to whom an order is issued may appeal it as a contested case in accordance with R.61-72 and the Administrative Procedures Act.

L. Permit Review.

A permit issued pursuant to this regulation shall be effective for the design and operational life of the facility, to be determined by the Department. At least once every five (5) years, the Department will review the environmental compliance history of each permitted solid waste processing facility.

1. If, upon review, the Department finds that material or substantial violations of the permit demonstrate the permittee's disregard for, or inability to comply with applicable laws, regulations, or requirements and would make continuation of the permit not in the best interests of human health and safety or the environment, the Department may, after a hearing, amend or revoke the permit, as appropriate and necessary. When a permit is reviewed, the Department shall include additional limitations, standards, or conditions when the technical limitations, standards, or regulations on which the original permit was based have been changed by statute or amended by regulation.

2. The Department may amend or attach conditions to a permit when:

- a. There is a significant change in the manner and scope of operation which may require new or additional permit conditions or safeguards to protect human health and safety and the environment;
- b. The investigation has shown the need for additional equipment, construction, procedures, and testing to ensure the protection of human health and safety and the environment; and,
- c. The amendment is necessary to meet changes in applicable regulatory requirements.

M. Severability.

Should any section, paragraph, sentence, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

HISTORY: Amended by State Register Volume 19, Issue No. 6, eff June 23, 1995; SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

61-107.7. Solid Waste Management: Transfer of Solid Waste.

(Statutory Authority: 1976 Code §§ 44-96-290, 44-96-300, 44-96-370, 44-96-400, 44-96-450, 48-1-10 et seq., 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024)

A. Applicability.

1. This regulation is to establish minimum standards for facilities where solid waste is transferred from collection vehicles to other transportation units for movement to another solid waste management facility prior to its processing and disposal. In addition, this regulation is to ensure that no unpermitted discharges to the environment occur during the process of transferring solid waste.

2. Solid waste management facilities commonly referred to as "drop-off centers" or "convenience centers", designed for the receipt of solid waste from personal, non-commercial vehicles and destined for delivery to another Solid Waste Management Facility (e.g. recycling, processing,

treatment, or ultimate disposal), will not be regulated as transfer stations. Facilities that handle only recovered materials are not subject to the requirements of this regulation.

3. Facilities transferring solid waste generated in the course of normal operations on property under the same ownership or control as the waste transfer facility are exempt from the requirements of this regulation.

B. Definitions.

1. "Closure" means the discontinuance of operation by ceasing to accept, treat, store, or dispose of solid waste in a manner which minimizes the need for further maintenance and protects human health and the environment.

2. "Collection" means the act of picking up solid waste materials from homes, businesses, governmental agencies, institutions, or industrial sites.

3. "Construction" means any physical modification to the site at which a potential or proposed solid waste management facility is to be located including, but not limited to, site preparation.

4. "Contingency plan" means a document acceptable to the Department setting out an organized, planned, and coordinated course of action to be followed at or by the facility in case of a fire, explosion, or other incident that could threaten human health and safety or the environment.

5. "Department" means the South Carolina Department of Environmental Services.

6. "Discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of solid waste, including leachate, into or on any land or water.

7. "Disclosure statement" means a sworn statement or affirmation, the form and content of which shall be determined by the Department as required by Code Section 44-96-300.

8. "Expansion" means the process of increasing existing capacity of operations at an existing site when such increase is in conformity with the area served and scope of operations of the original permit.

9. "Financial responsibility mechanism" means a mechanism designed to demonstrate that sufficient funds will be available to meet specific environmental protection needs of solid waste management facilities. Available financial responsibility mechanisms include, but are not limited to, insurance, trust funds, surety bonds, letters of credit, personal bonds, certificates of deposit, financial tests, and corporate guarantees as determined by the Department by regulation.

10. "Flood plain" means the lowland and relatively flat areas adjoining inland and coastal areas of the mainland and off-shore islands including, at a minimum, areas subject to a one percent or greater chance of flooding in any given year.

11. "Hazardous waste" has the meaning provided in Section 44-56-20 of the South Carolina Hazardous Waste Management Act.

12. "Infectious waste" has the meaning given in Section 44-93-20 of the South Carolina Infectious Waste Management Act.

13. "Leachate" means the liquid that has percolated through or drained from solid waste or other man-emplaced materials and that contains soluble, partially soluble, or miscible components removed from such waste.

14. "Owner/operator" means the person who owns the land on which a solid waste management facility is located or the person who is responsible for the overall operation of the facility, or both.

15. "Permit" means the process by which the Department can ensure cognizance of, as well as control over, the management of solid wastes.

16. "Person" means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.

17. "Recovered materials" means those materials which have known use, reuse, or recycling potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials when recycled or transferred to a different site for recycling in an amount which does not equal at least seventy-five percent by weight of materials received during the previous calendar year.

18. "Solid waste" means any garbage, refuse, or sludge from a waste treatment facility, water supply plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities. This term does not include solid or dissolved material in domestic sewage, recovered materials, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1964, as amended. Also excluded from this definition are application of fertilizer and animal manure during normal agricultural operations or refuse as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste, which will not have a significant adverse impact on the environment.

19. "Solid waste management facility" means any solid waste disposal area, volume reduction plant, transfer station, or other facility, the purpose of which is the storage, collection, transportation, treatment, utilization, processing, recycling, or disposal, or any combination thereof, of solid waste. The term does not include a recovered materials processing facility or facilities which use or ship recovered materials, except that portion of the facilities which is managing solid waste.

20. "Surface water" means lakes, bays, sounds, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within territorial limits, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private.

21. "Transfer station" means a combination of structures, machinery, or devices at a place or facility where solid waste is taken from collection vehicles and placed in other transportation units, with or without reduction of volume, for movement to another solid waste management facility.

22. "Transport" means the movement of solid waste from the point of generation to any intermediate point and finally to the point of ultimate processing, treatment, storage, or disposal.

23. "Vector" means a carrier that is capable of transmitting a pathogen from one organism to another including, but not limited to, flies and other insects, rodents, birds, and vermin.

24. "Vehicle" means any motor vehicle, water vessel, railroad car, airplane, or other means of transporting solid waste.

C. General Provisions.

1. The site, design, construction, and operation of all solid waste transfer stations shall conform to the standards as set forth in this regulation.

2. Any spillage or leakage of solid waste at a transfer station shall be contained on the storage site and unpermitted discharges to the environment shall be prohibited.

3. Sludges shall not be accepted at transfer stations and shall be transported directly to the disposal facility, disposal site or processing operation.

4. No person owning or operating a transfer station shall cause, suffer, allow, or permit the handling of regulated hazardous wastes or regulated infectious wastes at the transfer station.

5. Within six (6) months of the effective date of this regulation, all owners and/or operators of existing transfer stations shall submit to the Department as-built plans and specifications of the existing facility in accordance with Section D below.

6. Within twelve (12) months of the effective date of this regulation, existing facilities which transfer solid waste shall conform to the standards as set forth in this regulation unless otherwise approved by the Department.

7. If at any time, the Department determines that the solid waste transfer station poses an actual or potential threat to human health or the environment, the owner or operator shall implement a corrective action program. This program shall be approved by the Department prior to implementation.

8. The permittee of a solid waste transfer station shall notify the Department prior to transfer of ownership or operation of the facility during its operating life or during the post-closure care period. The Department will approve a reissuance of the permit to the new owner provided that the facility is in compliance and the new owner agrees in writing to assume responsibility in accordance with these regulations.

D. Permit and Application Requirements.

1. Prior to the construction, operation, expansion or modification of a solid waste transfer station, a permit shall be obtained from the Department.

2. Any person wishing to obtain a permit from the Department for the construction and/or operation of a solid waste transfer station shall submit three (3) copies of the following documents:

a. A completed permit application on a form provided by the Department;

b. A site plan. This plan shall include the following:

(1) Site conditions and projected use including all site structures, buildings, fences, gates, entrances and exits, parking areas, on-site roadways, and signs;

(2) Property boundaries, access roads, surface water bodies, wetlands as delineated and defined specifically as wetlands according to the methodology accepted by the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency, and the location of 100-year flood plain boundaries; and,

(3) Adjacent properties including the location of public and private water supplies on these properties;

c. A transportation plan specifying the number and type of transportation vehicles to be used, and how often solid waste will be transported to the disposal site or sites;

d. A plan for training equipment operators and other personnel concerning the operation of the facility;

e. A contingency plan describing alternate solid waste handling procedures for inoperable periods or delays in transporting solid waste;

f. A detailed closure plan which identifies the steps necessary to close the facility. The plan may be amended at any time during the active life of the facility with Department approval. The plan shall be amended whenever changes in operating plans or facility design affect the closure plan, or whenever there is a change in the expected year of closure;

g. A disclosure statement in accordance with the guidelines established by Code Section 44-96-300. The Department may accept one disclosure statement for multiple facility permit applicants. Local governments and regions comprised of local governments are exempt from submitting a disclosure statement; and,

h. The following items prepared by a South Carolina licensed professional engineer:

(1) Complete construction plans and specifications;

(2) Design calculations;

(3) A preliminary engineering report to include, but not be limited to, the following:

(a) An outline of proposed structures and areas designated for unloading and loading and the general process flow;

(b) A description of the general operating plan for the proposed facility including the origin, composition, and expected weight or volume of all solid waste to be accepted at the facility per day; the maximum time waste will be stored; where all wastes will be disposed; the capacity of the facility; the operating hours of the facility; how nonputrescible, recyclable waste will be handled; and, the expected life of the facility;

(c) A description of all machinery and equipment to be used, including the design capacity;

(d) A description of the facility's drainage system and water supply system; and,

(4) Upon completion of construction of the facility, certification that the facility was constructed in accordance with approved plans and specification.

3. The plans and specifications for a transfer station shall be in compliance with the design criteria as set forth in this regulation.

4. Prior to the issuance of a Department construction permit, a financial responsibility mechanism shall be submitted to the Department. The owner or operator of each facility shall establish sufficient financial assurance to ensure satisfactory maintenance, closure, and post-closure of the facility; or to carry out any corrective action which may be required as a condition of a permit.

Consideration shall be given to mechanisms which would provide flexibility to the owner or operator in meeting its financial obligations. The owner or operator shall be allowed to use combined financial responsibility mechanisms for a single facility and shall be allowed to use combined financial responsibility mechanisms for multiple facilities, utilizing actuarially sound risk-spreading techniques. Local governments are exempt from this requirement until such time as federal regulations require local governments or regions to demonstrate financial responsibilities for such facilities and the Department promulgates regulations addressing this issue.

E. Design Criteria for Solid Waste Transfer Facilities.

The following criteria are required at all solid waste transfer facilities unless otherwise approved by the Department:

1. The active waste handling area of a transfer station shall not be located within one hundred (100) feet of any property line;
2. The active waste handling area of a transfer station shall not be located within two hundred (200) feet of any surface water excluding drainage ditches and sedimentation ponds;
3. The active waste handling area of a transfer station shall not be located within two hundred (200) feet of any residence, school, hospital or recreational park area;
4. The active waste handling area of a transfer station shall not be located within one hundred (100) feet of a drinking water well;
5. A transfer station shall not be located within any wetlands as delineated and defined specifically as wetlands according to the methodology accepted by the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency;
6. Facilities shall adhere to all State, Federal, and local zoning, land use, and other applicable local ordinances;
7. On-site roads and unloading areas shall be adequate in size and design to facilitate efficient unloading and loading of the collection and transportation vehicles and the unobstructed movement of vehicles;
8. The unloading, storage and loading surface areas shall be constructed of low permeability materials, e.g., asphalt, concrete, etc.; provided with a water supply for cleaning purposes; and, equipped with drains or pumps, or equivalent means to facilitate the removal of water for proper disposal;
9. Solid waste passing through a transfer station and intended for disposal in this State, shall be transferred only to a facility permitted or registered by the Department to receive that waste;
10. Tipping areas shall be located within an enclosed building or covered area and all waste shall be contained in the tipping area;
11. Exhaust removal systems shall be installed in enclosed areas and operated to provide adequate ventilation;
12. Access to the site shall be controlled through the use of fences, gates, berms, natural barriers, or other means approved by the Department;
13. At least one (1) sign shall be posted at each access point to the facility with the hours of operation and the types of solid waste accepted at the transfer station;
14. Whenever possible, solid waste transfer stations shall not be constructed in a 100-year flood plain. When a transfer station is located in a 100-year flood plain, the owner shall demonstrate that the facility will not restrict the flow of the 100-year flood; and,
15. Arrangements shall be made with a local fire department to provide fire fighting services, or fire fighting equipment shall be maintained on-site.

F. Operation Criteria.

The following operational requirements shall apply to all facilities that transfer solid waste:

1. Procedures for preventing unauthorized receipt of prohibited wastes shall be addressed in the contingency plan;

2. The transfer station shall maintain a neat and orderly appearance. The facility and the interior of the transportation vehicles where the waste is held shall be cleaned as often as necessary so as to control litter, odors, rats, insects and other vectors;

3. All floors shall be free from standing water. All drainage areas shall be discharged to a sanitary sewer or other management method acceptable to the Department;

4. A transfer station with permanent operating mechanical equipment shall have an attendant on duty at all times the facility is open;

5. Solid wastes identified as nonputrescible recyclables or oversized, bulky, or untreatable solid waste may be temporarily stored outside on the premises for a period not to exceed one (1) week, unless an exemption is requested and approved by the Department in the facility's general operation plan, and if it does not create a nuisance or a sanitary or environmental problem;

6. Adequate fire protection equipment shall be available at all times or arrangements made with a local fire department; and,

7. All putrescible wastes shall be removed for proper disposal within twenty four (24) hours of receipt unless an exemption is requested and approved by the Department in the facility's general operating plan. All solid wastes that are not transferred within twenty four (24) hours shall be stored in a manner to promote vector and odor control.

G. Monitoring and Record Keeping Requirements.

1. Should the Department confirm environmental and/or health problems associated with any solid waste transfer facility, monitoring (including groundwater, surface water, and air quality monitoring) may be required by the Department, as appropriate, and based on a case by case evaluation to ensure protection of the environment.

2. Transfer stations regardless of ownership shall maintain records of the amount of all solid waste accepted at the facility each day and where all wastes were disposed. This information may be maintained in a summary format. These records shall be maintained for no less than five (5) years and shall be made available to the Department upon request.

H. Closure and Post-Closure Procedures.

The following closure and post-closure procedures apply to all solid waste transfer stations:

1. At least sixty (60) days prior to closure, the owner or operator shall provide written notice of intent to close and a proposed closure date to the Department;

2. Upon closing, the owner or operator shall immediately post signs at the facility which state that the facility is no longer in operation and remove all solid waste from the facility;

3. Within thirty (30) days of closure, the owner or operator shall either remove or treat all waste residues, contaminated soils and equipment in accordance with the approved closure plan, and notify the Department upon completion;

4. After receiving notification that the facility closure is complete, the Department will conduct an inspection of the facility. If all procedures have been correctly completed, the Department will approve the closure in writing, at which time the Department permit shall be terminated; and,

5. If the owner or operator demonstrates that not all contaminated soils can be practicably removed or treated as required in paragraph 3. of this section, then the owner or operator shall submit for Department approval, a post-closure care plan.

I. Violations and Penalties.

A violation of this regulation or any permit, order, or standard subjects the person to the issuance of a Department order, or to civil enforcement action in accordance with Code Section 48-1-330, or 44-96-450. Willful violation of this regulation or any permit, order, or standard subjects the person to the issuance of a Department order, or to criminal enforcement action in accordance with Code Section 48-1-320, or 44-96-450. A person to whom an order is issued may appeal it as a contested case pursuant to R.61-72 and the Administrative Procedures Act.

J. Permit Review.

Permits for solid waste transfer stations shall be effective for the design and operational life of the facility, to be determined by the Department. The Department shall review the permit for each solid waste transfer station at least once every five (5) years, unless otherwise specified by the Department.

1. If, upon review, the Department finds that material or substantial violations of the permit demonstrate the permittee's disregard for, or inability to comply with applicable laws, regulations, or requirements and would make continuation of the permit not in the best interests of human health and safety or the environment, the Department may, after a hearing, amend or revoke the permit, as appropriate and necessary. When a permit is reviewed, the Department shall include additional limitations, standards, or conditions when the technical limitations, standards, or regulations on which the original permit was based have been changed by statute or amended by regulation.

2. The Department may amend or attach conditions to a permit when:

- a. There is a significant change in the manner and scope of operation which may require new or additional permit conditions or safeguards to protect human health and safety and the environment;
- b. The investigation has shown the need for additional equipment, construction, procedures, and testing to ensure the protection of human health and safety and the environment; and,
- c. The amendment is necessary to meet changes in applicable regulatory requirements.

K. Severability.

Should any section, paragraph, sentence, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

HISTORY: Amended by SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

61-107.8. Solid Waste Management: Lead Acid Batteries.

(Statutory Authority: 1976 Code §§ 44-96-40, 44-96-180, 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024)

A. Applicability.

This regulation applies to the proper disposal, collection, and recycling of lead-acid batteries and small sealed lead-acid batteries.

B. Definitions.

1. "Collection" means the act of picking up solid waste materials from homes, businesses, governmental agencies, institutions, or industrial sites.

2. "Department" means the South Carolina Department of Environmental Services.

3. "Lead-acid battery" means any battery that consists of lead and sulfuric acid, is used as a power source, and has a capacity of six (6) volts or more, except that this term shall not include a small sealed lead-acid battery.

4. "Small sealed lead-acid battery" means any lead-acid battery weighing twenty-five (25) pounds or less, used in non-vehicular, non-SLI (start lighting ignition) applications.

5. "Lead-acid battery collection facility" means a facility authorized by the Department of Environmental Services to accept lead-acid batteries from the public for temporary storage prior to recycling.

6. "Small sealed lead-acid battery collection facility" means a facility authorized by the Department of Environmental Services to accept small sealed lead-acid batteries from the public for temporary storage prior to recycling.

7. "Person" means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.

8. "Recovered Materials Processing Facility" means a facility engaged solely in the recycling, storage, processing, and resale or reuse of recovered materials. The term does not include a solid waste handling facility; however, any solid waste generated by such facility is subject to all applicable laws and regulations relating to the solid waste.

9. "Secondary lead smelter" means a facility which produces metallic lead from various forms of lead scrap, including used lead-acid batteries.

10. "Used lead-acid battery" means a battery which is of no use in its present state. This includes batteries which are regulated by R.61-79.266 Subpart G, Spent Lead-Acid Batteries Being Reclaimed.

11. "Used small sealed lead-acid battery" means any battery fitting the definition of a small sealed lead-acid battery and which is of no use in its present state.

C. General Provisions for Lead-Acid Batteries.

1. No person shall knowingly place a used lead-acid battery in mixed municipal solid waste, discard or otherwise dispose of a lead-acid battery, except by delivery to:

- a. a lead-acid battery retailer or wholesaler;
- b. a collection, recycling, or recovered material processing facility that is registered by the Department to accept lead-acid batteries; or,
- c. a permitted secondary lead smelter.

2. No battery retailer shall knowingly dispose of a used lead-acid battery except by delivery to:

- a. the agent of a lead-acid battery wholesaler or the agent of a permitted secondary lead smelter;
- b. a vehicle battery manufacturer for delivery to a permitted secondary lead smelter;
- c. a collection, recycling, or recovered material processing facility that is registered by the Department to accept lead-acid batteries; or,
- d. a permitted secondary lead smelter.

3. A person selling lead-acid batteries or offering lead-acid batteries for retail sale in this State shall:

- a. accept, at the point of transfer, lead-acid batteries from customers; and,
- b. post written notice, either issued by or approved by the Department, at his place of business which must be at least eight and one-half inches by eleven inches (8 ½ x 11) in size and must contain the state recycling symbol and the following language:
 - (1) "It is illegal to put a motor vehicle battery in the garbage."
 - (2) "Recycle your used batteries."
 - (3) "State law requires us to accept motor vehicle batteries for recycling."

4. Any person selling lead-acid batteries at wholesale or offering lead-acid batteries for sale at wholesale shall accept, at the point of transfer, lead-acid batteries from customers.

5. The lead-acid battery retailer shall charge a five dollar (\$5.00) refundable deposit for each battery sold for which a core is not returned to the retailer. The deposit shall be returned to the consumer if a core is returned to the same retailer within thirty (30) days.

6. The operation of a lead-acid battery collection, recycling or recovered material processing facility shall be in a manner to protect public health, safety and the environment. Leaking lead-acid batteries shall be stored in heavy duty plastic bags or other suitable containers capable of preventing discharge of acid.

D. General Provisions for Small Sealed Lead-Acid Batteries.

1. No person shall knowingly place a used small sealed lead-acid battery in mixed municipal solid waste, discard, incinerate or otherwise dispose of a small sealed lead-acid battery, except by delivery to:

- a. a small sealed lead-acid battery retailer or wholesaler,
- b. a collection, recycling, or recovered material processing facility that is registered by the Department to accept small sealed lead-acid batteries; or,
- c. a permitted secondary lead smelter.

2. No battery retailer shall knowingly dispose of a used small sealed lead-acid battery except by delivery to:

- a. the agent of a lead-acid battery wholesaler or the agent of a permitted secondary lead smelter;
- b. a small sealed lead-acid battery manufacturing facility for delivery to a permitted secondary lead smelter;
- c. a small sealed lead-acid battery importer for delivery to a permitted secondary lead smelter;

- d. a facility designated by a small sealed lead-acid battery manufacturer or importer to accept small sealed lead-acid batteries for delivery to a secondary lead smelter;
- e. a collection, recycling, or recovered material processing facility that is registered by the Department to accept small sealed lead-acid batteries; or,
- f. a permitted secondary lead smelter.

3. The operation of a small sealed lead-acid battery collection, recycling or recovered material processing facility shall be in a manner to protect public health, safety and the environment. Damaged small sealed lead-acid batteries shall be stored in heavy-duty plastic bags or other suitable containers capable of preventing discharge of acid.

4. A person selling small sealed lead-acid batteries or offering small sealed lead-acid batteries for retail sale in this State shall post written notice, either issued by or approved by the Department, at his place of business which must be at least eight and one-half inches by eleven inches (8 ½ x 11) in size and must contain the state recycling symbol and the following language:

- (1) "It is illegal to put a small sealed lead-acid battery in the garbage."
- (2) "Recycle your used small sealed lead-acid batteries."

E. Registration Requirements.

1. Collection, recycling, and recovered material processing facilities shall register with the Department to accept lead-acid batteries and/or small sealed lead-acid batteries. Registrations shall be renewed no later than March 1, of each calendar year. This requirement does not apply to persons selling lead-acid batteries and/or small sealed lead-acid batteries or offering lead-acid batteries and/or small sealed lead-acid batteries for retail sale or wholesale, who accept lead-acid batteries and/or small sealed lead-acid batteries, at the point of transfer, only from customers.

2. Within 60 days of the effective date of this regulation, the owner and/or operator of all collection, recycling, and recovered material processing facilities accepting lead-acid batteries and/or small sealed lead-acid batteries, shall register with the Department. To be registered, the owner and/or operator shall submit to the Department, the name and location of the facility and the name, address and telephone number of the owner and/or operator of the facility.

3. Collection, recycling, and recovered material processing facilities not accepting lead-acid batteries and/or small sealed lead-acid batteries prior to the effective date of this regulation, shall register with the Department prior to accepting lead-acid batteries and/or small sealed lead-acid batteries. To be registered, the owner and/or operator shall submit to the Department, the name and location of the facility and the name, address and telephone number of the owner and/or operator of the facility.

F. Violations and Penalties.

Any person violating the provisions of Sections C. 1. and 2., shall be subject to a fine not to exceed two hundred dollars (\$200.00). Each lead-acid battery improperly disposed shall constitute a separate violation.

G. Severability.

Should any section, paragraph, sentence, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

HISTORY: Amended by State Register Volume 19, Issue No. 6, eff June 23, 1995; SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

61-107.9. Solid Waste Management: White Goods.

(Statutory Authority: 1976 Code §§ 44-96-200, 48-6-10
et seq., and 2023 Act No. 60, effective July 1, 2024)

A. Applicability.

This regulation applies to the proper management and recycling or disposal of inoperative or discarded white goods.

B. Definitions.

- 1. "Department" means the South Carolina Department of Environmental Services.

2. “Person” means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.

3. “White goods” include refrigerators, ranges, water heaters, freezers, dishwashers, trash compactors, washers, dryers, air conditioners, and commercial large appliances.

C. General Provisions.

1. Effective May 27, 1994, no person shall knowingly include white goods with other municipal solid waste that is intended for collection or disposal at a municipal solid waste landfill.

2. Effective May 27, 1994, no owner or operator of a municipal solid waste landfill shall knowingly accept white goods for disposal at such landfill. An owner or operator of a municipal solid waste landfill may accept white goods for temporary storage prior to shipment of such white goods to a recycling facility.

3. Prior to the recycling or disposal of white goods:

a. all ozone depleting compounds (e.g. chlorofluorocarbons) used as refrigerants shall be recovered in accordance with applicable Federal, State and local regulations.

b. all electrical components shall be removed and disposed in a manner consistent with Federal, State and local regulations.

4. White goods shall be stored in a manner to protect human health, safety and the environment and in accordance with Federal, State and local regulations.

D. Retailer Requirements.

All persons selling or offering white goods for sale at retail in South Carolina shall post written notice, at their place of business, notifying all customers that white goods may not be disposed by landfilling after May 27, 1994. The notice, either issued by or approved by the Department, shall be at least eight and one-half inches by eleven inches (8 ½ × 11) in size.

E. Violations and Penalties.

Any person violating the provisions of Sections C. 1. and 2., shall be subject to a fine not to exceed two hundred dollars (\$200.00). Each white good improperly disposed shall constitute a separate violation.

F. Severability.

Should any section, paragraph, sentence, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

HISTORY: Amended by SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

61-107.10. Solid Waste Management: Research, Development, and Demonstration Permit Criteria.

(Statutory Authority: 1976 Code §§ 44-96-310, 44-96-450, 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024)

A. Applicability.

This regulation applies to solid waste management facilities, or parts of these facilities, proposing to utilize an innovative and experimental solid waste management technology or process.

B. Definitions.

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

2. “Disclosure statement” means a sworn statement or affirmation, the form and content of which shall be determined by the Department and as required by Section 44-96-300.

3. “Permit” means the process by which the Department can ensure cognizance of, as well as control over, the management of solid wastes.

4. “Person” means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.

5. “Solid waste management” means the systematic control of the generation, collection, source separation, storage, transportation, treatment, recovery, and disposal of solid waste.

6. "Solid waste management facility" means any solid waste disposal area, volume reduction plant, transfer station, or other facility, the purpose of which is the storage, collection, transportation, treatment, utilization, processing, recycling, or disposal, or any combination thereof, of solid waste. The term does not include a recovered materials processing facility or facilities which use or ship recovered materials, except that portion of the facilities which is managing solid waste.

C. General Provisions.

1. The Department may issue a research, development and demonstration permit for any solid waste management facility, or a part of the facility, which proposes to utilize an innovative and experimental solid waste technology or process for which permit standards for such activity have not been promulgated. Permits issued shall include such terms and conditions necessary to assure protection of human health, safety, and the environment and shall be for a period not to exceed two (2) years.

2. Nothing in this regulation creates exceptions to or authorizes the Department to grant variances from Federal and State laws and regulations and the Solid Waste Policy and Management Act.

3. The Department permit shall ensure the owner or operator provides for the receipt, storage, and disposal of only those types and quantities of solid waste that the Department deems necessary for purposes of determining the efficiency and performance capabilities of the technology or process and the effects of such technology or process on human health, safety and the environment.

4. The Department shall request a disclosure statement from the permit applicant in accordance with the guidelines established by Code Section 44-96-300. Local governments and regions comprised of local governments are exempt from this requirement.

D. Permit Requirements.

1. Prior to construction, modification, or operation of a solid waste research, development and demonstration facility, a permit shall be obtained from the Department. The application shall be signed by an engineer duly licensed and registered under the laws of the State of South Carolina.

2. Any person wishing to obtain a permit from the Department for a solid waste research, development and demonstration facility, shall submit to the Department three (3) copies of the following documents:

- a. A completed permit application, on a form provided by the Department;
- b. A detailed description of the proposed activity;
- c. A description of the manner in which the permit applicant intends to provide for the management of solid waste in order to determine:
 - (1) the efficiency and performance capabilities of the technology or process;
 - (2) the effects of such technology or process on human health, safety and the environment;and,
 - (3) how the permit applicant intends to protect human health, safety and the environment in the conduct of the project;
- d. A plan for assessing the effectiveness and environmental effect of the proposed facility;
- e. A complete operational plan, including design details and a timetable for completing various phases of the facility from initiation of construction to completion of the project;
- f. A demonstration of financial responsibility by the permit applicant through submission of proof of liability insurance or other form of financial surety deemed sufficient by the Department to meet the following: all responsibilities for closure of the research, development and demonstration facility; and/or all responsibilities in the case of a release of solid waste causing bodily injury or property damage to any third party, including contamination of groundwater and liability for environmental restoration resulting from negligence in operation. The owner or operator shall provide continuous coverage for closure or clean-up until released from financial responsibility requirements by certifying that closure or clean-up of the facility is complete.
- g. A plan for corrective action utilizing conventional technology in the event of environmental, safety and/or health hazards.

3. If the Department deems necessary, additional requirements may be imposed to ensure protection to human health, safety, and the environment including, but not limited to:

- a. monitoring;
- b. operation;
- c. financial responsibility;
- d. closure;
- e. corrective action; and,
- f. reporting.

E. Location Requirements.

Location requirements addressed in this section apply to all solid waste research, development, and demonstration facilities, unless otherwise approved by the Department.

1. Facilities shall be adjacent to or have direct access to roads which are of all weather construction and capable of withstanding anticipated load limits.

2. Facilities located in 100-year floodplains shall demonstrate that the facility will not restrict the flow of the 100-year flood.

3. The active waste handling area shall not be located within two hundred (200) feet of any surface water, excluding drainage ditches and sedimentation ponds.

4. Facilities shall not be located within any wetlands as delineated and defined specifically as wetlands according to the methodology accepted by the U. S. Army Corps of Engineers and the U. S. Environmental Protection Agency.

5. The active waste handling area shall not extend closer than one hundred (100) feet to any drinking water well.

6. Locations shall allow for sufficient room to minimize traffic congestion and allow for safe operation.

7. The active waste handling area shall not extend closer than two hundred (200) feet to residences, schools, hospitals and recreational park areas.

8. The active waste handling area shall not extend closer than one hundred (100) feet to all property lines.

9. Facilities shall adhere to all Federal, State, and local zoning, land use and other applicable local ordinances.

F. Design and Operation Requirements.

A research, development, and demonstration facility shall be designed and operated according to the minimum criteria listed in this section.

1. The facility shall not be larger than the area needed to adequately test the new or unique technology.

2. No waste shall be processed or disposed at the facility after two (2) years from the initial processing or disposal of waste at the facility, unless a different period is stated in the Department permit. Activities involving the management of solid waste at the facility prior to the issuance of the research, development, and demonstration permit, may be continued provided a valid Department permit for such activities is in effect.

3. Quarterly reports shall be prepared and submitted to the Department concerning the effectiveness and environmental effect of the facility.

4. If during the life of the permit, the Department determines that the facility is causing or is likely to cause harm to public health, safety or to the environment, the facility shall take appropriate action to prevent or eliminate the practice which is causing the hazard.

5. Trained personnel shall be present at all times during the operation of the facility.

G. Reporting Requirements.

1. Quarterly reports shall be submitted to the Department, within thirty (30) days of the end of each calendar quarter. The report shall include at a minimum, the following information:

- a. Source, type, and total quantity in weight and/or volume of waste received at the facility for the previous quarter;
- b. A description of the method and quantity of the distribution and/or disposal of the waste;
- c. The weight and/or volume of each material recycled or marketed as a result of the process; and,
- d. A report concerning the effectiveness and environmental effect of the facility.

2. Within ninety (90) days from the expiration of the permit, or within another period established by the Department, the owner or operator shall submit to the Department an analysis of the effectiveness and environmental effect of the facility.

H. Departmental Evaluation of Analysis.

1. The Department will review the quarterly reports and other relevant data to determine if the facility is satisfactorily achieving its objectives and if the facility is adequately protecting public health, safety, and the environment.

2. If after two (2) years, the Department determines that the facility adequately achieved its objectives and satisfactorily protected public health, safety, and the environment, the Department subsequently may promulgate regulations or criteria regarding the technology or process in accordance with the authority granted the Department by the Solid Waste Policy and Management Act. Prior to the Department establishing such regulations or criteria, the Department may issue written approval for the continuance of the technology or process.

I. Violations and Penalties.

A violation of this regulation subjects the person to the issuance of a Department order, or to civil or criminal enforcement action by the Attorney General's Office. In addition, the Department may impose reasonable civil penalties not to exceed ten thousand dollars (\$10,000.00) for each day of violation of the provisions of this regulation, including any order, permit or standard. A person to whom an order is issued may appeal it as a contested case in accordance with R.61-72 and the Administrative Procedures Act.

J. Severability.

Should any section, paragraph, sentence, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

HISTORY: Amended by SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

61-107.12. Solid Waste Management: Solid Waste Incineration and Solid Waste Pyrolysis Facilities.

(Statutory Authority: 1976 Code §§ 44-96-10 et seq., 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024)

Part I. Applicability, Definitions, and General Provisions.

A. Applicability.

1. This regulation establishes the procedures, documentation, and other requirements which must be met for the proper operation and management of all solid waste incineration facilities, including all solid waste pyrolysis facilities, and waste-to-energy facilities burning solid waste used for energy recovery.

2. Facilities incinerating solid waste generated in the course of normal operations on property under the same ownership or control as the solid waste incineration facility are exempt from the requirements of this regulation. This exemption includes industrial boilers and furnaces that burn industrial by-products generated on-site, or on properties under the same ownership or control. Air curtain incinerators burning only yard-trimmings and land-clearing debris generated on-site, or generated on properties under the same ownership or control, are exempt from the requirements of this regulation. Air curtain incinerators used for emergency storm debris management at sites designated by state, county and municipal government are exempt from the requirements of this regulation.

3. Industrial boilers and industrial furnaces that burn Refuse-Derived Fuel (RDF) only, or burn RDF with a fossil fuel or wood are exempt from the requirements of this regulation.
4. Facilities that treat contaminated soils pursuant to other regulations are exempt from the requirements of this regulation.
5. Disposal of hazardous waste from conditionally exempt small quantity generators at solid waste incinerators is prohibited unless the incinerator is permitted under the South Carolina Hazardous Waste Management Regulations.
6. Government owned and operated incineration facilities that are used by an agency such as police, customs, agricultural inspection or a similar law enforcement agency to destroy illegal or prohibited goods, are exempt from the requirements of this regulation, but must comply with other applicable federal, state and local requirements.
7. Facilities using air curtain incinerators that never store more than four hundred cubic yards of clean wood, yard and land-clearing debris consisting of only untreated natural wood debris, untreated or unfinished wood waste, or a mixture of these specific waste stream on site at any given time, are conditionally exempt from the permitting requirements of this regulation when the conditions of subsections Part II.B., C., E., and F. of this regulation are maintained by the facility.

B. Definitions.

1. "Air curtain incinerator" means an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which burning occurs. Incinerators of this type can be constructed above or below ground and require a refractory lined chamber or pit.
2. "Applicant" means an individual, corporation, partnership, business association, or government entity that applies for the issuance, transfer, or modification of a permit under this article.
3. "Ash" means the solid residue from the incineration of solid waste.
4. "Closure" means the discontinuance of operation by ceasing to accept, treat, store, or dispose of solid waste in a manner which minimizes the need for further maintenance and protects human health and the environment.
5. "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial solid wastes.
6. "Department" means the South Carolina Department of Environmental Services.
7. "Disclosure Statement" means a sworn statement or affirmation, the form and content of which shall be determined by the Department and as required by Code Section 44-96-300.
8. "Financial assurance mechanism" means a mechanism designed to demonstrate that sufficient funds will be available to meet specific environmental protection needs of solid waste management facilities. Available financial assurance mechanisms include, but are not limited to, insurance, trust funds, surety bonds, letters of credit, certificates of deposit, and financial tests as determined by the Department by regulation.
9. "Incineration" means the use of controlled flame combustion to thermally break down solid, liquid, or gaseous combustible wastes, producing residue that contains little or no combustible materials.
10. "Incinerator" means any engineered device used in the process of controlled combustion of waste for the purpose of reducing the volume, and/or reducing or removing the hazardous potential of the waste charged by destroying combustible matter leaving the noncombustible ashes, material and/or residue.
11. "Industrial boiler" means a boiler that produces steam, heated air, or other heated fluids for use in a manufacturing process.
12. "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy:
 - a. Cement kilns;
 - b. Lime kilns;
 - c. Aggregate kilns;

- d. Phosphate kilns;
- e. Coke ovens;
- f. Blast furnaces;
- g. Smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces);
- h. Titanium dioxide chloride process oxidation reactors;
- i. Methane reforming furnaces;
- j. Pulp and paper liquor recovery furnaces;
- k. Combustion devices used in the recovery of sulfur values from spent sulfuric acid; and,
- l. Such other devices as the Department may determine on a case-by-case basis using one or more of the following factors:

- (1) The design and use of the device primarily to accomplish recovery of material products;
- (2) The use of the device to burn or reduce raw materials to make a material product;
- (3) The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;
- (4) The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;
- (5) The use of the device in common industrial practice to produce a material product; and,
- (6) Other factors, as appropriate.

13. "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under subtitle C of RCRA. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

14. "Local government" means a county, any municipality located wholly or partly within the county, and any other political subdivision located wholly or partly within the county when such political subdivision provides solid waste management services.

15. "Medical waste," for the purposes of this regulations, means infectious waste as defined in South Carolina Infectious Waste Management Regulation 61-105.E.

16. "Permit" means the process by which the Department can ensure cognizance of, as well as control over, the management of solid wastes.

17. "Putrescible wastes" means solid waste that will rapidly decompose with the potential to cause odor and attract vectors.

18. "Pyrolysis" means the chemical decomposition of a material by heat in the absence of oxygen.

19. "Recovered materials" mean those materials which have known use, reuse, or recycling potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing. At least seventy-five percent (75%) by weight of the materials received during the previous calendar year must be used, reused, recycled, or transferred to a different site for use, reuse, or recycling in order to qualify as a recovered material.

20. "Refuse Derived Fuel (RDF)," for the purpose of this regulation, means a type of fuel produced from solid waste by separating some, or all, of the noncombustible from the combustible portions, shredding and classifying the waste by size. This includes all classes of RDF including low-density fluff RDF through densified RDF and pelletized RDF.

21. "Region" means a group of counties in South Carolina which is planning to or has prepared, approved, and submitted a regional solid waste management plan to the Department pursuant to Section 44-96-80.

22. "Residential solid waste" means solid waste (including garbage, trash, and sanitary waste from septic tanks) derived from households (including single and multiple residences.)

23. "Solid waste" means any garbage, refuse, or sludge from a waste treatment facility, water supply plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities. This term does not include solid or dissolved material in domestic sewage, recovered materials, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1964, as amended. Also excluded from this definition are application of fertilizer and animal manure during normal agricultural operations or refuse as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste, which will not have a significant adverse impact on the environment.

24. "Solid waste management" means the systematic control of the generation, collection, source separation, storage, transportation, treatment, recovery, and disposal of solid waste.

25. "Solid waste management facility" means any solid waste disposal area, volume reduction plant, transfer station, or other facility, the purpose of which is the storage, collection, transportation, treatment, utilization, processing, recycling, or disposal, or any combination thereof, of solid waste. The term does not include a recovered materials processing facility or facilities which use or ship recovered materials, except that portion of the facilities which is managing solid waste.

26. "Special waste" means nonresidential and commercial solid wastes, other than regulated hazardous wastes, that are either difficult or dangerous to handle and require unusual management, including, but not limited to, those waste contained in Code Section 44-96-390(A).

27. "Vector" means a carrier that is capable of transmitting a pathogen from one organism to another including, but not limited to, flies and other insects, rodents, birds, and vermin.

28. "Waste-to-energy facility," for the purposes of this regulation, means a facility that uses an enclosed device using controlled combustion to thermally break down solid, liquid, or gaseous combustible solid waste to an ash residue that contains little or no combustible material and that produces electricity, steam, or other energy as a result. The term does not include facilities that primarily burn fuels other than solid waste even if such facilities also burn some solid waste as a fuel supplement. The term also does not include facilities that burn vegetative, agricultural, or silvicultural wastes, clean dry wood, methane or other landfill gas, wood fuel derived from construction or demolition debris, or waste tires, alone or in combination with fossil fuels."

29. "Waters of the United States" means:

a. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

b. All interstate waters, including interstate wetlands;

c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sand flats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds that the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(3) Which are used or could be used for industrial purposes by industries in interstate commerce;

d. All impoundments of waters otherwise defined as Waters of the United States under this definition;

- e. Tributaries of waters identified in paragraph a through paragraph f of this definition;
- f. The territorial sea;
- g. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraph a through paragraph f of this definition; and,
- h. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act, are not waters of the United States.

C. General Provisions.

1. No permit to construct a new solid waste incineration facility may be issued by the Department unless the proposed facility is consistent with the local or regional solid waste management plan and the state solid waste management plan. Consistency determinations shall be made in accordance with the state and county or regional solid waste management plans in effect on the date that a complete application is received by the Department. This subsection must not apply to industrial facilities managing solid waste generated in the course of normal operations on property under the same ownership or control as the waste management facility. However, these facilities shall be consistent with the applicable local zoning and land use ordinances, if any, provided that the industrial facility is not a commercial solid waste management facility. Prior to the issuance of a permit for a new or expanded facility, the Department shall approve an allowable capacity based on the local or regional solid waste management plan, the facility's design capacity, and the following criteria:

- a. No solid waste incineration facility with a daily capacity in excess of six hundred (600) tons shall be permitted within the State.
- b. No solid waste incineration facility with a daily capacity in excess of one hundred (100) tons shall be permitted to be sited within three (3) miles of another such facility.

2. The siting, design, construction, operation, closure, and post-closure activities of new or expanding solid waste incineration facilities shall conform to the standards set forth in this regulation, the facility's permit and in R.61-107.17. Solid Waste Management: Demonstration of Need.

3. A permit obtained from the Department pursuant to these regulations, or an exemption from permitting pursuant to these regulations, does not exempt the incineration facility from the necessity of obtaining other Department required permits (e.g. air quality, water pollution control).

4. No person owning or operating an incineration facility shall cause, suffer, allow, or permit the handling of regulated hazardous wastes or regulated infectious wastes at the incineration facility, unless the facility is specifically permitted for such wastes.

5. The Department shall require a disclosure statement from the permit applicant in accordance with Code Section 44-96-300. Local governments and regions comprised of local governments are exempt from this requirement. The Department may accept one (1) disclosure statement for multiple facility permit applicants.

6. A permit shall be required for each site or facility although the Department may include one or more different types of facilities in a single permit if the facilities are co-located on the same site.

7. Construction of an incinerator shall not be initiated until all required approvals are obtained.

8. The permittee of a solid waste incineration facility shall notify the Department prior to transfer of ownership or operation of the facility during its operating life or during the post-closure care period. The Department will approve a reissuance of the permit to the new owner provided that the facility is in compliance and the new owner agrees in writing to assume responsibility in accordance with these regulations. The Department must receive a disclosure statement and proof of financial assurance for the new permittee before a permit can be reissued.

9. Facilities that have a valid Department permit for managing hazardous or infectious waste, may request to be exempted from certain portions of this regulation.

Part II. Requirements for Air Curtain Incineration Facilities.

A. Permit Application Requirements.

1. Prior to the construction, modification, or operation of an air curtain incineration facility, a permit shall be obtained from the Department pursuant to these regulations. The application shall be signed by an engineer duly licensed and registered under the laws of the State of South Carolina.

2. Any person wishing to obtain a permit pursuant to these regulations, to operate an air curtain incineration facility, shall submit to the Department, one (1) printed copy and a digital copy of the following documents:

- a. A completed permit application, on a form provided by the Department;
- b. An operating report which shall include the following:

- (1) A detailed description of the facility, including, but not limited to, structures, access roads, on-site roads, parking areas, loading and unloading areas, storage areas for incoming waste and non-combustible waste generated by the incinerator, fences, and gates;

- (2) A description of the disposal location or any re-use or recycling planned for the ash residue;

- (3) A map showing the specific location, land use, and zoning within one-fourth (1/4) mile of the boundaries of the proposed facility, and distances to any locations from which a buffer is required;

- (4) A site plan, on a scale of not greater than two hundred (200) feet per inch, designating the property boundaries and all existing and proposed structures and access roads;

- (5) Detailed engineering plans and specifications for the incinerator and other related machinery; and,

- (6) A description of the manner in which waste waters, if any, from the facility will be managed.

- c. An itemized closure cost estimate, prepared by a third party acceptable to the Department, which projects the expenses for closure activities listed in the closure plan, using cost estimates as calculated in accordance with Part IV.B.2 of this regulation. The cost estimate will declare the maximum amount of incoming waste and ash which may be located at a facility at any given time.

3. Public Noticing Requirements for Air Curtain Incineration Facilities. Noticing for air curtain incineration facilities shall be in accordance with Part III. A.3 of this regulation, except that notice shall be given to the county administrator, the county planning office, and all owners of real property as they appear on the county tax maps, as contiguous landowners of the proposed permit area.

B. Design Requirements for Air Curtain Incineration Facilities.

1. All facilities shall be adjacent to or have direct access to roads that are of all-weather construction and capable of withstanding anticipated load limits.

2. The active waste handling area of the facility and burn trench shall have separation from the groundwater table at all times.

3. No facilities shall be located within the 100-year floodplain.

4. The active waste handling area of the facility shall not be located within five hundred (500) feet of any waters of the U.S.

5. All facilities shall be in compliance with the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency requirements concerning wetlands.

6. The active waste handling area of the facility shall not extend closer than one hundred (100) feet to any drinking water well.

7. Locations shall allow for sufficient room to minimize traffic congestion and allow for safe operation.

8. No facility shall extend closer than one hundred (100) feet to any property line.

9. The active waste handling area of a facility, shall not extend closer than five hundred (500) feet to residences, schools, day-care centers, hospitals or recreational park areas.

10. Facilities shall adhere to all Federal and State rules and regulations and all local zoning, land use and other applicable local ordinances.

11. Facilities shall be equipped with portable fire extinguishers, fire control equipment and spill control equipment.

C. Operations Criteria for Air Curtain Incineration Facilities.

1. Air curtain incinerators may burn only clean wood, yard-trimmings and land-clearing debris consisting of only untreated natural wood debris, untreated or unfinished wood waste, or a mixture of these specific waste streams.

2. The operator shall restrict the presence of, and shall minimize the possibility for any unauthorized entry onto the facility. A statement of the days and hours of operation shall be posted at the entrance of the facility and access, except for Department and/or emergency personnel, shall be limited to those times when authorized personnel are on duty.

3. Receipt and handling of solid waste:

(a) The facility is authorized to process only solid waste authorized by Department permit. The weight of all solid waste received at the facility shall be recorded and incorporated into the annual report.

(b) Storage and/or processing of putrescible waste is prohibited.

(c) Wastes shall be stored so as to prevent a fire hazard.

4. Trained personnel shall be present at all times during the operation of the facility.

5. The ash from all air curtain incineration facilities shall be properly managed and disposed, as approved in the facility permit, immediately after removal from the air curtain incinerator.

D. Reporting Requirements. Facilities with air curtain incinerators shall report annually to the Department by October 15 for the previous fiscal year (July 1 through June 30), which includes at a minimum, the following information:

1. Total quantity in tons of solid waste received at the facility for the previous fiscal year;

2. The county in South Carolina in which the solid waste originated, or the state, if the waste originated outside South Carolina;

3. The transfer station, if applicable; and,

4. A description of the method and quantities of the solid waste, ash, and non-acceptable waste transported off-site for disposal or reuse or recycling.

E. Closure Requirements. All air curtain incineration facilities shall comply with the closure and post-closure procedures as specified in Part IV.A of this regulation.

F. Training Requirements. All air curtain incineration facilities shall comply with personnel training requirements in Part IV.C of this regulation.

Part III. Requirements for Solid Waste Incineration Facilities, Including Pyrolysis Facilities. This Part applies to all facilities using incineration technologies, including pyrolysis, except for Air Curtain Incineration facilities permitted in accordance with the requirements in Part II of this regulation.

A. Permit Application Requirements.

1. Prior to the construction, modification, or operation of a solid waste incineration facility, a permit shall be obtained from the Department pursuant to these regulations. The application shall be signed by an engineer duly licensed and registered under the laws of the State of South Carolina.

2. Any person wishing to obtain a permit pursuant to these regulations, from the Department to operate a solid waste incineration facility, shall submit to the Department, one printed copy and a digital copy of the following documents:

a. A completed permit application, on a form provided by the Department;

b. An engineering report which shall include the following:

(1) An overall description of the facility;

(2) A description of the process and equipment to be used;

(3) A description of the area and proposed population which will be served by the facility;

(4) A description of the types and quantities of solid waste to be accepted;

(5) A description of the existing site. Any existing site conditions that will be utilized during the operation of the proposed incinerator shall be identified as existing on the plan including, but not limited to, structures, access roads, on-site roads, parking areas, loading and unloading areas, fences, and gates;

(6) A description of the security measures, including, but not limited to fences, gates, and signs;

(7) The location of storage areas for incoming waste, incinerator ash, precipitator waste, and other non-combustible waste generated by the incinerator;

- (8) A description of any re-use or recycling planned for the ash residue; and,
- (9) An identification of the ultimate disposal location for all facility-generated waste residues including, but not limited to, ash residues, and non-combustible waste, and the proposed alternate disposal locations for any unauthorized waste types, which may have been unknowingly accepted;
- c. Complete engineering plans and specifications that, at a minimum, address the items listed below:
 - (1) A map showing the specific location, land use, and zoning within one-fourth (1/4) mile of the boundaries of the proposed facility;
 - (2) Drawings of buildings and other structures, on a scale no greater than one (1) foot per quarter inch, showing types of construction, layout, and dimensions for unloading, storage, and processing areas;
 - (3) A site plan, on a scale of not greater than two hundred (200) feet per inch, designating the property boundaries and all existing and proposed structures and access roads;
 - (4) Weighing of all solid waste to be accepted at the facility;
 - (5) Storage areas for incoming solid waste and out-going ash;
 - (6) Detailed engineering plans and specifications for the incinerator and other related machinery; and,
 - (7) Detailed engineering plans and specifications for leachate control and related equipment;
- d. A complete description of the personnel training program that meets the requirements of Part IV.C of this regulation;
- e. An ash management plan that at a minimum addresses the following:
 - (1) Identification of the facility approved by the Department that will receive the residue; and,
 - (2) A certification that the facility shall have adequate capacity to handle such residue;
- f. A description of the manner in which waste waters, if any, from the facility will be managed;
- g. A quality assurance and quality control report. The facility owner or operator shall institute a control program (including measures such as signs, monitoring, alternate collection programs, passage of local laws, etc.) to assure that only solid waste authorized by the Department is being processed at the facility;
- h. A written contingency plan which describes a technically and financially feasible course of action to be taken in response to contingencies during the construction and/or operation of the facility. The contingency plan shall be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous constituents to air, soil, or surface water;
- i. A narrative description of the general operating plan for the facility, including the origin, composition and weight of solid waste that is to be processed at the facility, the process to be used at the facility, the daily operational methodology of the process, the loading rate, the proposed capacity of the facility and the expected life of the facility. The plan shall include a descriptive statement of any materials recycling or reclamation activities to be operated in conjunction with the facility, either on the incoming solid waste or the out-going residue. The plan shall describe how the facility will meet all applicable regulatory requirements;
- j. An operation and maintenance manual describing how the facility shall be maintained and operated in accordance with the intended use and permit of the facility. The manual shall include, but not be limited to, the following:
 - (1) A description of the proposed procedures for the operation of each major facility component;
 - (2) Procedures to be followed during startup and scheduled and unscheduled shutdown of operations;
 - (3) Identification of the operating variables for the process and any control devices used to detect a malfunction or failure, the normal range of these variables, and a description of the method of monitoring; and the sequence of responsible action in the event that the equipment and instruments exceed normal operating ranges;

(4) Methods and schedules to check operation of control equipment and instrumentation, including a list of all equipment and instruments requiring calibration and a schedule of proposed calibration intervals. All process instruments shall be calibrated no less than once per year. Process control instruments shall be maintained in an operable condition;

(5) A description of the proposed measures to control dust, noise, litter, odor, rodents and insects at the facility;

(6) An inventory and location of all facility records and as-built drawings; and,

(7) An estimate of the type, quantity, and on-site storage of fuels needed for the facility;

k. A detailed closure plan which shall identify the steps necessary to close the facility. The plan will describe how all wastes, residues (including ash, scrubber waters and sludge) will be removed from the incinerator facility, including ductwork, piping, air pollution equipment, and surfaces that have contacted waste. The plan will also describe the procedures to dismantle and remove contaminated components of the incinerator facility when relocation or disposal of the component parts is preferred to closure in place. The plan may be amended at any time during the active life of the facility with Department approval. The plan shall be amended whenever changes in operating plans or facility design affect the closure plan, or whenever there is a change in the expected year of closure;

l. An itemized closure cost estimate, prepared by a third party acceptable to the Department, which projects the expenses for closure activities listed in the closure plan and declares the maximum amount of incoming waste and ash which may be located at a facility at any given time and remain in compliance with all federal, state and local permits applicable to the site. Financial assurance requirements for permitted facilities are found in Part IV.B of this regulation; and,

m. A waste control plan that, at a minimum, addresses the items outlined below. Facilities that receive only municipal solid waste are exempt from items (2)(a) & (b) below.

(1) Waste approval procedures for making the determination of whether to approve or refuse proposed waste streams;

(2) Waste screening procedures and a time frame for making the determination of whether to accept or reject shipments of incoming waste streams to include procedures for:

(a) Verifying that the profile sheets provided by the generators match all shipped containers; and,

(b) Conducting extended verification testing on each shipment of incoming waste;

(3) Waste disposal procedures for the proper handling, storage, and disposal of all unauthorized wastes; and,

(4) Record keeping procedures for maintaining documentation related to the acceptance, rejection, storage, operational data, and proper disposal of all wastes received by the facility. Records shall be maintained for a minimum of five (5) years and shall be made available to the Department upon request.

3. Public Noticing Requirements for Permitted Incineration Facilities.

a. Within fifteen (15) days of submitting an application to the Department, the applicant shall give notice that he/she has requested a permit to operate. Notice shall be given to the county administrator, the county planning office, and all owners of real property as they appear on the county tax maps, as landowners within one (1) mile of the proposed permit area. This notice shall contain:

(1) The name and address of the applicant;

(2) The type of facility and what it will accept for incineration;

(3) A detailed description of the location of the facility, using road numbers, street names, and landmarks, as appropriate;

(4) Department locations (Central Office and appropriate Regional Office) where a copy of the permit application will be available for review during normal working hours; and

(5) The Department address and contact name for submittal of comments and inquiries.

b. The applicant shall provide evidence of Noticing as required in Part III.A.3 to the Department.

c. A comment period of not less than thirty (30) days from the date of Noticing will be provided prior to issuance of a Department decision.

d. Notice of the Department decision regarding the permit application will be sent to the applicant, to affected persons or interested persons who have asked to be notified, to all persons who commented in writing to the Department, and to the facility's host county. The use of certified mail to send Notice of the Department's decision shall be at the discretion of the Department unless specifically requested in writing by an interested person.

B. Design Requirements. Design requirements addressed in this section apply to all solid waste incineration facilities, unless otherwise approved by the Department.

1. Solid waste incineration facilities shall be adjacent to or have direct access to roads that are of all weather construction and capable of withstanding anticipated load limits.

2. Solid waste incineration facilities shall not be located within the 100-year floodplain.

3. The active waste handling area of a solid waste incineration facility shall not be located within five hundred (500) feet of any waters of the U.S.

4. Solid waste incineration facilities shall comply with the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency requirements concerning wetlands.

5. The active waste handling area of a solid waste incineration facility shall not extend closer than five hundred (500) feet to any drinking water well. The active waste handling area of the facility and all ash management areas shall have separation from the groundwater table at all times.

6. Locations shall allow for sufficient room to minimize traffic congestion and allow for safe operation.

7. No solid waste incineration facility shall extend closer than one hundred (100) feet to any property line.

8. The active waste handling area of a solid waste incineration facility shall not extend closer than one thousand (1000) feet to residences, schools, day-care centers, hospitals or recreational park areas.

9. Solid waste incineration facilities shall adhere to all Federal and State rules and regulations and all local zoning, land use and other applicable local ordinances.

10. The tipping, loading and unloading areas shall be:

a. Constructed with a minimum slope of 1%;

b. Constructed of impervious materials, e.g., asphalt, concrete;

c. Provided with a water supply for storage and transfer area cleaning purposes; and,

d. Equipped with drains, pumps, or equivalent means to facilitate the removal of water for proper disposal.

11. The transfer structures, buildings, and ramps shall be constructed of materials that can be easily cleaned.

12. The solid waste storage area and tipping area must include fire detection and protection equipment.

13. Leachate and washwater from a solid waste incineration facility shall not be allowed to drain or discharge into waters of the State unless an effluent disposal permit (e.g. land application or NPDES) is approved by the Department.

14. Emergency Preparedness. In addition to requirements set forth in the contingency plan, all solid waste incineration facilities shall at a minimum:

a. Provide adequate aisle space to allow for emergency equipment;

b. Be equipped with the following:

(1) An internal communications system capable of providing immediate emergency instruction to facility personnel and an alarm system to notify facility personnel of an emergency condition;

(2) A device, such as a telephone (immediately available at the scene of operations) or a handheld two-way radio, capable of summoning emergency assistance from local police departments, fire departments, and State or local emergency response teams;

(3) Portable fire extinguishers, fire control equipment and spill control equipment; and,

(4) Water available at adequate volume and pressure to supply water hose streams, automatic sprinklers, or water spray systems.

C. Operations Criteria. A solid waste incineration facility shall be designed and operated according to the minimum criteria listed in this section, unless otherwise approved by the Department.

1. All incinerators shall be operated in a manner so as to prevent the creation of a public health nuisance or potential health hazard. Litter, odors, rats, insects, flies, mosquitos, and other vectors shall be controlled at the facility.

2. All solid waste containing putrescible wastes shall be processed within seventy-two (72) hours of receipt unless an exemption is requested and approved by the Department in the facility's general operating plan.

3. All solid waste containing putrescible wastes that will not be processed on site shall be transferred to a permitted disposal facility within seventy-two (72) hours of its receipt.

4. Prior to initial operation of a new incinerator, the Department shall be notified so that an inspection may be made of the facility to determine conformance with the approved plans.

5. The incineration facility shall be operated and maintained so as to minimize interference with other activities in the area.

6. Access Controls. The operator shall restrict the presence of, and shall minimize the possibility for any unauthorized entry onto the facility. A statement of the days and hours of operation shall be posted at the entrance of the facility and access, except for Department and/or emergency personnel, shall be limited to those times when authorized personnel are on duty.

7. Receipt and Handling of Solid Waste.

a. The facility is authorized to process only solid waste authorized by Department permit. The weight of all solid waste received at the facility shall be recorded and incorporated into the annual report.

b. Outside storage and/or processing of putrescible waste is prohibited.

c. Unauthorized or untreatable solid waste may be temporarily stored on the premises for a period not to exceed one week; the facility may request an exemption to the one week limit to be incorporated in its general operating plan. The facility must ensure that waste does not create a nuisance or a sanitary or environmental problem.

d. Wastes shall be stored so as to prevent a fire hazard.

8. Process Changes. The owner or operator shall receive approval from all appropriate Department program areas in writing of all process changes before they are implemented. Permit modifications shall be required as deemed necessary by the Department.

9. Emergency Preparedness.

a. All solid waste incineration facilities shall at a minimum:

(1) Test and maintain as necessary to assure its proper operations, all facility emergency equipment including, but not limited to, communications or alarm systems, fire protection equipment, spill control equipment, and personal safety equipment;

(2) Provide immediate access for all personnel involved in the facility operation to an internal alarm or emergency communication device; and,

(3) Provide for an emergency coordinator.

b. The contingency plan shall be implemented immediately whenever there is a fire, explosion, or release of hazardous constituents which could threaten human health or the environment, and the Department immediately notified using the 24-hour emergency response telephone number.

c. Any unscheduled shutdown that exceeds twenty-four (24) hours shall be reported to the Department's Environmental Quality Control Regional Office of the region in which the facility is located.

10. Guidelines shall be established for identifying any items or materials that shall be removed prior to the incineration process.

11. Trained personnel shall be present at all times during the operation of the facility.

D. Monitoring and Reporting Requirements.

1. Monitoring may be required by the Department, as appropriate, and based on a case-by-case evaluation to ensure protection of the environment.

2. An annual report, on a form provided by, or acceptable to, the Department, shall be submitted to the Department by October 15 for the previous fiscal year (July 1 through June 30,) which includes at a minimum, the following information:

- a. Type (i.e., residential, medical, commercial, industrial, special, and other) and total quantity in tons of solid waste received at the facility for the previous fiscal year;
- b. The county in South Carolina in which the solid waste originated, or the State if the waste originated outside South Carolina;
- c. The transfer station, if applicable; and,
- d. A description of the method and quantities of the solid waste, ash, and non-acceptable waste transported off-site for disposal or reuse or recycling.

3. A report containing the following information for ash residue sampling and analyses as outlined in Part IV.D of this regulation, shall be submitted to the Department within sixty (60) days of sample collection:

- a. The date and place of sampling and analysis;
- b. The names of the individuals who performed the sampling and analysis;
- c. The sampling and analytical methods utilized;
- d. The results of such sampling and analyses; and,
- e. The signature and certification of the report by an appropriate authorized agent for the facility.

4. Upon implementation of the contingency plan, the owner or operator shall immediately notify the Department (using the 24-hour emergency response telephone number) and note, in the operating record and the annual report, the time, date, and details of the incident. Upon request, a written report shall be submitted to the Department that includes the following information:

- a. The name, address and telephone number of the operator and the facility;
- b. The date, time and type of incident (e.g., fire, explosion, etc.);
- c. The type and quantity of materials involved;
- d. The extent of injuries, if any;
- e. An assessment of actual or potential hazards to human health or the environment, where this is applicable;
- f. The estimated quantity and disposition of solid waste, liquids, or material recovered that resulted from the incident; and,
- g. The procedures or equipment available to prevent a recurrence of the reported event.

5. Records of all monitoring and reporting information, pursuant to these regulations, shall be maintained for a minimum of at least five (5) years from the sample or measurement date, unless otherwise specified by the Department. These reports shall be made available to Department personnel upon request.

Part IV. General Requirements.

A. Closure and Post-Closure Procedures.

Closure and post-closure procedures addressed in this section apply to all solid waste incineration facilities.

1. At least sixty (60) days prior to closure, provide written notice of intent to close and a proposed closure date to the Department. The final quantity of solid waste shall be received no less than thirty (30) days prior to closure date.

2. Upon closing, the owner or operator shall immediately post signs at the facility which state that the facility is no longer in operation.

3. Within thirty (30) days after receiving the final quantity of solid waste, the owner or operator of a conditionally exempt facility shall remove all solid waste and shall remove or treat all waste residues, contaminated soils and equipment. Within thirty (30) days after receiving the final quantity of solid waste, the owner or operator of a permitted facility shall remove all solid waste and shall remove or treat all waste residues, contaminated soils and equipment in accordance with the approved closure plan, and notify the Department upon completion.

4. After receiving notification that the facility closure is complete, the Department will conduct an inspection of the facility. If all procedures have been correctly completed, the Department will approve the closure in writing, at which time the Department permit shall be terminated.

5. If the owner or operator demonstrates that not all contaminated soils can be practicably removed or treated as required in paragraph 3. of this section, then the owner or operator shall submit for Department approval, a post-closure care plan.

B. Financial Assurance Requirements.

1. The requirements of this section apply to all permitted solid waste incineration facilities. Local governments are exempt from this requirement until such time as federal regulations require such local governments or regions to demonstrate financial responsibility for such facilities and the Department promulgates regulations addressing this issue. Prior to accepting wastes, facilities shall fund a financial assurance mechanism acceptable to the Department to ensure the satisfactory maintenance and closure of the facility. The acceptable mechanisms to fund financial assurance requirements are described in R.61-107.19, SWM: Solid Waste Landfills and Structural Fill Part I.E.

2. The amount of financial assurance required shall be based on a third party itemized cost estimate to complete the facility closure plan as approved in the facility permit and the costs for tipping fees and hauling the maximum amount of material that the facility can store at any given time, to a suitable landfill for disposal. The closure cost estimate shall include the costs of labor, equipment, and soil amendments to properly grade and seed the site and the costs for soliciting third party bids to complete the closure. The Department shall use an average cost of disposal per ton of material, as reported in the most recent Solid Waste Management Annual Report.

3. During the active life of the facility, the permittee shall annually adjust the closure cost estimate when the disposal cost estimate increases substantially based on information published in the Solid Waste Management Annual Report.

4. The permittee shall increase the closure cost estimate and the amount of financial assurance provided if changes to the closure plan or site conditions increase the maximum cost of closure at any time during the site's remaining active life.

5. The permittee shall increase the closure cost estimate and the amount of financial assurance provided if a release to the environment occurs to include cost of groundwater monitoring, assessment and corrective action if the Department determines that these measures are necessary at any time during the active life of the facility. Financial assurance shall be maintained and adjusted annually until the Department agrees that environmental conditions meet applicable standards.

6. The permittee may reduce the closure cost estimate and the amount of financial assurance provided for proper closure if the cost estimate exceeds the maximum cost of closure at any time during the remaining life of the facility. The permittee shall submit justification for the reduction of the closure cost estimate and the amount of financial assurance to the Department for review and approval.

7. The registrant or permittee shall provide continuous coverage for closure until released from financial assurance requirements, pursuant to this regulation.

8. Default by Permittee. The Department may take possession of a financial assurance fund if the permittee fails to:

- a. Complete closure in accordance with the Department approved facility closure plan;
- b. Complete corrective action; or,
- c. Renew or provide alternate acceptable financial assurance as required.

9. Prior to taking possession of financial assurance funds, the Department shall:

- a. Issue a notice of violation or order alleging that the permittee has failed to perform closure in accordance with the closure plan or permit requirements; and,
- b. Provide the permittee seven (7) days prior notice and an opportunity for a hearing.

C. Personnel Training Requirements. Solid waste incineration facility personnel training programs pursuant to these regulations, shall at a minimum:

1. Identify the positions which will require training and a knowledge of the procedures, equipment, and processes at the facility;
2. Describe how facility personnel will be trained to perform their duties in a way that ensures the facility's compliance with these regulations, including the proper procedures that shall be followed in the processing and handling of solid waste not authorized by the Department to be received at the facility;
3. Be designed to ensure that facility personnel are able to respond effectively to all emergencies, including different types of fires, by familiarizing them with the contingency plan, emergency and safety equipment, emergency procedures and emergency systems; and,
4. Documentation of training. The following records of training shall be maintained at the facility:
 - a. The job title for each position at the facility related to solid waste management and the name of the employee filling each job;
 - b. A written job description for each position listed under paragraph 4.a. of this section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or unit, but must include the requisite skill, education, or other qualifications, and duties of employees assigned to each position;
 - c. A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under paragraph 4.a. of this section; and,
 - d. Records that document the training or job experience required under this section that has been given to, and completed by, facility personnel.
5. Training records on current personnel shall be kept until closure of the facility; training records on former employees shall be kept for at least three (3) years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

D. Ash Residue Requirements. Permanently located air curtain incinerators are exempt from the requirements of this section. However, the ash from these facilities shall be properly disposed immediately after removal from the incinerator.

1. Sampling and Analysis Requirements and Procedures.

- a. Ash residue generated by a solid waste incinerator shall be sampled and analyzed according to the current Environmental Protection Agency (EPA) acceptable methodology for determining the hazardous nature of the ash being disposed.
- b. The required analyses of all residual ash, shall be performed in accordance with the conditions of the solid waste management facility permit and current solid waste management regulations. The analyses shall be performed separately on the bottom ash and the fly ash, unless the bottom ash and fly ash are combined, in which case the combined ash shall be sampled and analyzed.
- c. At a minimum, the ash residue at a new incineration facility shall be sampled and analyzed:
 - (1) Prior to the initial disposal of ash from the facility;
 - (2) Monthly for the first six (6) months of incineration operations at the facility;
 - (3) Semi-annually during the remaining life of the facility; and,
 - (4) At any time there is a change in the waste stream being incinerated.
- d. At a minimum, the ash residue at an existing incineration facility shall be sampled and analyzed semi-annually.
- e. If the Department deems necessary, more stringent sampling and analysis may be required.

f. A sampling and analysis plan shall be submitted to and approved by the Department, along with the ash residue management plan that identifies both the sample collection and analytical protocols that must be used to obtain representative samples of ash residue.

g. All analyses performed pursuant to this section shall be conducted by a laboratory certified by the Department.

h. The results of all such analyses shall be submitted to the Department no later than sixty (60) days after testing. Records shall be maintained at the facility for a period not less than five (5) years, and be available to Department personnel upon request.

2. Contents of the Ash Management Plan.

a. Prior to the construction and/or operation of a solid waste incinerator, an ash residue management plan shall be submitted to and approved by the Department.

b. The ash residue management plan shall describe the methods, equipment, and structures necessary to prevent the uncontrolled dispersion of ash residue considering potential pathways of human or environmental exposure including, but not limited to, inhalation, direct contact, and potential for groundwater and surface water contamination.

c. The ash residue management plan shall address the handling, storage, transportation, treatment, and disposal or reuse or recycling of ash residue as described in this section.

d. Handling. The owner and/or operator shall design, construct, operate, and maintain ash handling systems that ensure that ash residue (whether bottom ash, fly ash or combined ash) is properly wetted or contained to ensure that dust emissions are controlled during on-site and offsite storage, loading, transport, and unloading. The ash residue shall be wet enough so the surface of the ash remains damp after unloading at a landfill.

e. Storage.

(1) The owner and/or operator shall provide sufficient on-site ash residue storage capacity to ensure that facility operations continue during short term interruptions of ash residue transportation and/or disposal. The quantity of residue stored on-site shall be limited to no more than seven (7) times the daily design output.

(2) Residue stored on-site may be either:

(a) Stored in watertight, leak resistant containers located inside a building or enclosed structure. Prior to storage, free liquid shall be allowed to drain from the ash residue. Liquid drained during this process shall be collected and disposed in an approved waste water disposal system. Loaded containers may be stored outside of a building or enclosed structure if all free-liquid has been drained and the container is sealed and covered to prevent rain water infiltration or airborne emissions; or,

(b) Stored on-site in a waste pile which is located in an enclosed structure. The residue shall be placed on an impermeable base. A runoff management system shall be provided to collect and control the free liquid that is allowed to drain from the ash residue.

f. Transportation. Ash residue shall be drained of free liquid prior to transport. Ash residue transportation containers or vehicles shall be watertight and leak resistant and shall be designed and constructed such that any closures at or near the bottom are sealed to prevent leakage under normal transportation conditions. Closures shall be fitted with gaskets or materials that will not be deteriorated by the ash. The transport vehicle shall be enclosed or covered to prevent the top surface of the load from becoming dried. Provisions shall be made to wash vehicle tires and/or body to prevent ash from tracking onto roadways.

g. Disposal. Disposal of all ash generated by the facility shall be in accordance with standards set forth by Department regulations.

h. Reuse or Recycling. This section applies to ash residue in the form of bottom ash only, fly ash only, or combined ash that is proposed to be reused or recycled as an ingredient or as a substitute for a raw material.

(1) The owner and/or operator shall demonstrate to the Department's satisfaction that the resulting material: has a known market or disposition; and, that contractual arrangements have

been made with a second person for use as an ingredient in a production process and that this person has the necessary equipment to do so.

(2) The owner and/or operator shall also:

(a) Chemically and physically characterize the ash residue and each finished product or products and identify the quantity and quality to be marketed;

(b) Describe the proposed method of application or use, available markets and marketing agreements;

(c) Demonstrate that the intended use will not adversely affect the public health, safety, welfare and the environment;

(d) If the use of the ash residue includes the mixing with different types of materials, a description of each product mixture shall be provided; and,

(e) Provide the Department with a copy of any information regarding the reuse or recycling of ash residue.

(3) The reuse or recycling of ash residue does not relieve the owner and/or operator from compliance with other monitoring requirements specified in this regulation.

E. Corrective Action Requirements. If at any time, the Department determines that the solid waste incineration facility poses an actual or potential threat to human health or the environment, the owner or operator shall implement a corrective action program reviewed and approved by the Department.

F. Violations and Penalties. A violation of this regulation or violation of any permit, order, or standard subjects the person to the issuance of a Department order, or a civil or criminal enforcement action in accordance with Code Section 44-96-450. In addition, the Department may impose reasonable civil penalties not to exceed ten thousand dollars (\$10,000.00) for each day of violation of the provisions of this regulation, including violation of any order, permit, or standard.

G. Permit Review. A permit issued pursuant to this regulation shall be effective for the design and operational life of the facility, to be determined by the Department. At least once every five (5) years, the Department will review the environmental compliance history of each permitted solid waste incineration facility.

1. If, upon review, the Department finds that material or substantial violations of the permit issued pursuant to these regulations, demonstrate the permittee's disregard for, or inability to comply with applicable laws, regulations, or requirements and would make continuation of the permit not in the best interests of human health and safety or the environment, the Department may, after a hearing, amend or revoke the permit, as appropriate and necessary. When a permit is reviewed, the Department shall include additional limitations, standards, or conditions when the technical limitations, standards, or regulations on which the original permit was based have been changed by statute or amended by regulation.

2. The Department may amend or attach conditions to a permit when:

a. There is significant change in the manner and scope of operation which may require new or additional permit conditions or safeguards to protect human health and safety and the environment;

b. The investigation has shown the need for additional equipment, construction, procedures, and testing to ensure the protection of human health and safety and the environment; and,

c. The amendment is necessary to meet changes in applicable regulatory requirements.

H. Severability. Should any section, paragraph, sentence, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

HISTORY: Amended by State Register Volume 23, Issue No. 5, eff May 28, 1999; State Register Volume 40, Issue No. 6, Doc. No. 4614, eff June 24, 2016; SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

Editor's Note

In 2017, in III.A.2.(c)(1), an extraneous "1/4" was deleted to correct a scrivener's error.

61-107.14. Solid Waste Management: Municipal Solid Waste Landfill Operator's Certification.

(Statutory Authority: 1976 Code §§ 44-96-260, 44-96-460, 44-96-10 et seq., 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024)

A. Applicability. This regulation establishes minimum training and certification requirements for operators of municipal solid waste landfills and municipal solid waste incinerator ash landfills.

B. Definitions.

1. "Department" means the South Carolina Department of Environmental Services.
2. "Municipal solid waste" means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas), generated by commercial establishments (stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding industrial facilities) and nonhazardous sludge.
3. "Municipal solid waste incinerator ash landfill" means any landfill or landfill unit, publicly or privately owned, that receives the solid residue from incinerators that burn municipal solid waste.
4. "Municipal solid waste landfill" means any sanitary landfill or landfill unit, publicly or privately owned, that receives household waste. The landfill may also receive other types of solid waste, such as commercial waste, nonhazardous sludge, and industrial solid waste.
5. "Operator" for the purposes of this regulation, means any person, including the owner, who is principally engaged in, or is in charge of, the actual operation, supervision, and maintenance of a municipal solid waste landfill or a municipal solid waste incinerator ash landfill and includes the person in charge of a shift or period during any part of the day. Operators will be classified by the following two (2) categories:
 - a. "Manager" means the person(s) with responsibility for the overall management of the facility; and,
 - b. "Supervisor" means the person(s) with supervisory responsibility for a specific facility site or shift.
6. "Sanitary landfill" means a land disposal site employing an engineered method of disposing of solid waste on land in a manner that minimizes environmental hazards and meets the design and operation requirements of State regulations.
7. "Workers" for the purposes of this regulation, means the persons performing the daily maintenance activities at the landfill.

C. General Provisions.

1. No person shall perform the duties of manager or supervisor of a municipal solid waste landfill or a municipal solid waste incinerator ash landfill (MSWIAL) unless he/she is duly certified by the State of South Carolina as a Landfill Operator.
2. Landfill operator's training and certification requirements shall be classified by the following categories:
 - a. Manager; and,
 - b. Supervisor.
3. Municipal solid waste landfill and MSWIAL managers and supervisors shall be trained and tested by a Department-approved training program and upon satisfactory completion of the course material and examination, shall be certified by the Department.
4. Operator certification examinations:
 - a. The operator certification examinations will be based on the appropriate basic operator training course curriculum.
 - b. An applicant who completes the training course but fails to pass the required examination within one year of the initial employment date shall not work in the capacity of a manager or supervisor at a municipal solid waste landfill and/or a MSWIAL until repeating the Department-approved operator's certification course and subsequently passing the certification examination.
5. All Department issued operator's certifications shall be renewed every three (3) years.
6. A certified manager or supervisor shall be on duty during all hours of operation of a municipal solid waste landfill and a MSWIAL.
7. Certified managers and supervisors shall refuse waste deemed unacceptable for that landfill.

D. Manager.

1. The manager of a landfill shall successfully complete a Department-approved training course and examination within one (1) year of the initial employment date.

2. Managers who have current Solid Waste Association of North America (SWANA or GRCDA) certification may request reciprocity for South Carolina certification, in lieu of completing the required training course and examination. The request for reciprocity shall be made within ninety (90) days from the initial employment date into the manager position. Documentation, i.e. a copy of SWANA or GRCDA Certification, verification of initial employment date, and a request for reciprocity shall be submitted to the Department. If the employee fails to submit the request within the allotted ninety (90) day timeframe, he/she shall be required to successfully complete the training course, pursuant to Item D.1. above, in order to remain in the manager landfill position.

3. Fifteen (15) contact hours of continuing education, or 1.5 continuing education units (CEUs) from an approved source shall be completed by the manager prior to each renewal. The manager shall request and receive Department approval for the courses. Acceptability of courses for earning CEUs as required for certification renewal shall be determined by the Department. CEUs shall not be carried over from a three (3) year period into the next three (3) year renewal period.

4. CEUs and certification renewal:

a. The manager shall be responsible for submitting the following information concerning earned CEUs in order to maintain accurate Department records for certification renewal:

(1) Manager's name and certification number; and,

(2) A copy of the certificate, or other documentation indicating completion of a specific course and the number of CEUs earned.

b. Failure to earn the required number of CEUs and/or report this information to the Department shall result in revocation of certification.

5. Managers shall be knowledgeable of the following areas:

a. Regulations in reference to:

(1) Federal;

(2) State:

(a) agency responsible;

(b) definitions; and,

(c) requirements;

(3) OSHA—Safety to include:

(a) compliance with Hazard Communication Standard (29 CFR 1910.1200) and all other OSHA standards;

(b) carrying out the Emergency Response Plan; and,

(c) ensuring that all safety precautions are observed;

b. Role of municipal solid waste landfills in reference to:

(1) Generation of solid wastes;

(2) Physical and chemical composition and decomposition of waste;

(3) Waste identification in reference to:

(a) solid waste;

(b) hazardous waste; and,

(c) infectious waste; and,

(4) Handling of special wastes;

c. Landfill development phase to include:

(1) Site selection;

(2) Waste decomposition:

(a) landfill gas generation and migration;

(b) leachate generation and migration; and,

- (c) control;
- d. Landfill operations phase to include:
 - (1) Monitoring equipment and systems;
 - (2) Cover systems;
 - (3) Liners; and,
 - (4) Personnel and equipment concerns;
- e. Landfill closure phase to include:
 - (1) Complying with engineering design for closure;
 - (2) Long term maintenance;
 - (3) Environmental monitoring;
 - (4) End uses;
 - (5) Final cover design; and,
 - (6) Vegetation; and,
- f. Landfill post-closure to include financing closure and post-closure care.
- 6. Managers shall ensure that landfill workers are provided proper training.
- E. Supervisor.
 - 1. The supervisor of a landfill shall successfully complete a Department-approved training course and examination within one (1) year of the initial employment date.
 - 2. Supervisors who have current SWANA or GRCDCA certification may request reciprocity for South Carolina certification, in lieu of completing the required training course and examination. The request for reciprocity shall be made within ninety (90) days of the initial employment date into the supervisor position. Documentation, i.e. a copy of SWANA or GRCDCA Certification, verification of initial employment date from the landfill manager, and a request for reciprocity shall be submitted to the Department. If the employee fails to submit the request within the allotted ninety (90) day timeframe, he/she shall be required to successfully complete the training course, pursuant to Item 1. above, in order to remain in the supervisor landfill position.
 - 3. Six (6) contact hours of continuing education or 0.6 CEUs, shall be acquired by the supervisor prior to each renewal. The supervisor shall request and receive Department approval for the courses. Acceptability of courses for earning CEUs as required for certification renewal shall be determined by the Department. CEUs shall not be carried over from a three (3) year period into the next three (3) year renewal period.
 - 4. CEUs and certification renewal:
 - a. The supervisor shall submit the following information concerning earned CEUs:
 - (1) Supervisor's name and certification number; and,
 - (2) A copy of the certificate indicating completion of a specific course and the number of CEUs earned.
 - b. Failure to earn the required number of CEUs and/or report this information to the Department shall result in revocation of certification.
 - 5. The certified supervisor shall be knowledgeable of the following functions:
 - a. Waste identification in reference to:
 - (1) Different types of waste;
 - (2) Types of permitted wastes for identification and approval purposes;
 - (3) Response to non-permitted wastes; and,
 - (4) Monitoring the waste stream;
 - b. Equipment operation and preventive maintenance to include:
 - (1) Checking equipment prior to operation;
 - (2) Operating equipment to standards; and,

- (3) Performing preventive maintenance;
- c. Safety:
 - (1) Identification and use of personal protective equipment;
 - (2) Compliance with Hazard Communication Standard (29 CFR 1910.1200) and all other OSHA standards;
 - (3) Safe operation of equipment/tools;
 - (4) The Emergency Response Plan; and,
 - (5) Ensuring that all safety precautions are observed;
- d. Landfill operation phase to include:
 - (1) Operating face requirements;
 - (2) Traffic control at the working face;
 - (3) Techniques for spreading and compacting waste;
 - (4) Cover application; and,
 - (5) Proper handling of special wastes;
- e. Landfill development phase to include:
 - (1) Ability to read, interpret, and implement operational and design plans; and,
 - (2) Determination of elevations;
- f. Monitoring in reference to:
 - (1) Ensuring the integrity of monitoring equipment and systems; and,
 - (2) Identifying the basic functions of monitoring systems;
- g. Planning daily operations;
- h. Landfill closure phase to include compatibility of daily operations with engineering design for closure;
- i. Landfill post-closure to include compatibility of daily operations with post-closure plans; and,
- j. Regulatory knowledge to ensure compliance with:
 - (1) Department inspection criteria for landfills; and,
 - (2) Basic permit requirements.
- 6. Supervisors shall ensure that workers are properly trained.
- F. Worker.
 - 1. Workers shall receive on-the-job training by either a contracted trainer approved by the Department or the employee's certified supervisor(s).
 - 2. The required basic worker's training shall address the following areas, at a minimum:
 - a. Waste identification in reference to:
 - (1) Different types of waste; and,
 - (2) Types of permitted wastes;
 - b. Equipment operation and prevention maintenance to include:
 - (1) Checking equipment prior to operation;
 - (2) Operating equipment to standards; and,
 - (3) Performing preventive maintenance;
 - c. Safety in reference to:
 - (1) Identification and use of personal protective equipment;
 - (2) Compliance with Hazard Communication Standard (29 CFR 1910.1200) and all other OSHA standards;
 - (3) Operation of equipment/tools safely; and,

- (4) Worker responsibilities under the Emergency Response Plan; and,
 - d. Landfill operation phase to include:
 - (1) Operating face requirements;
 - (2) Traffic control at the working face;
 - (3) Techniques for spreading and compacting waste;
 - (4) Cover application; and,
 - (5) Proper handling of special wastes.
 - 3. Department staff will observe worker performance to determine compliance with requirements.
- G. Disciplinary Action. Disciplinary action against a certified operator may be taken on any of the following grounds:
 - 1. Gross negligence or a continued pattern of incompetence in the practice as a certified operator;
 - 2. Intentionally violating or inducing another to violate the rules and permit conditions applicable to landfill operation;
 - 3. Failure to take appropriate corrective action concerning violations documented during Department inspection(s);
 - 4. Failure to submit required records of operation or other reports or monitoring data as required under applicable permits or Department regulations;
 - 5. Making any false statement, representation, or certification on any application, record, report or document required to be maintained or submitted under any applicable permit or regulation of the Department;
 - 6. Failure to ensure adequate training and supervision of landfill workers; and,
 - 7. Failure to refuse unacceptable waste.
- H. Disciplinary Sanctions Allowable and Procedures for Disciplinary Action.
 - 1. Disciplinary action shall be based on the severity of the violation incurred as determined by the Department. Action shall consist of either:
 - a. Probation under specified conditions relevant to the specific grounds for disciplinary action. Additional education or training, or reexamination may be required as a condition of probation; or,
 - b. Revocation of an operator's certification for a specified timeframe as determined by the Department.
 - 2. The following procedure shall be followed when disciplinary action is initiated:
 - a. A Department written notice shall be given to an operator against whom disciplinary action is being taken; and,
 - b. Within fifteen (15) days from receipt of written notification of disciplinary action by the Department, the operator may appeal it as a contested case pursuant to R.61-72 and the Administrative Procedures Act.
- I. Severability. Should any section, paragraph, sentence, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

HISTORY: Added by State Register Volume 18, Issue No. 5, eff May 27, 1994. Amended by SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

61-107.15. Solid Waste Management: Land Application and Solid Waste.

Statutory Authority: 1976 Code Sections 44-96-260, 44-96-290, 44-96-310, 44-96-380, 44-96-450, 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024

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A. Applicability.

1. The purpose of this regulation is to establish appropriate application rates, frequency of application, and monitoring requirements for the uniform surface spreading or mechanical incorporation of non-hazardous solid waste on, or into, soil that is being used for agricultural, silvicultural and horticultural production. This regulation also applies to the application of solid waste on land that is being reclaimed to enhance its aesthetic value or to reduce environmental degradation. The land application of non-hazardous solid waste shall be for beneficial agricultural, silvicultural and horticultural purposes and not used as a means of disposal.

2. This regulation does not apply to the land application of solid or dissolved material in domestic sewage, industrial sludges, or water treatment sludges.

3. The application of commercial fertilizer, as defined in the South Carolina Fertilizer Law of 1954, S. C. Code Section 46-25-20 et seq. and animal manure during normal agricultural, silvicultural and horticultural operations is exempt from the requirements of this regulation.

4. Refuse, as defined and regulated pursuant to the South Carolina Mining Act, S.C. Code Section 48-20-10 et seq., including processed mineral waste which will not have a significant adverse impact on the environment, is exempt from the requirements of this regulation.

5. This regulation does not apply to the remediation of petroleum contaminated soils.

6. This regulation does not apply to the land application of hazardous waste which must be in compliance with the South Carolina Hazardous Waste Management Regulations.

7. This regulation does not apply to solid waste contaminated with petroleum products, heavy metals, septage, or pesticides regulated by the "Federal Insecticide, Fungicide, Rodenticide Act".

8. This regulation does not apply to the beneficial reuse of solid wastes in processes other than land application, e.g., the addition of ash to concrete and use of solid waste for structural fill.

9. This regulation does not apply to wastes generated as a result of ongoing normal agricultural, silvicultural, and horticultural operations when application is on properties owned and/or operated by the generator.

10. This regulation does not apply to waste generated by a homeowner when the waste is land applied on the site where it is generated.

B. Definitions.

1. "Agricultural Laboratory" means a laboratory that performs a standard agricultural soil test, such as that performed by the Clemson Soil Test Laboratory for the purpose of recommending lime and plant nutrients needed or appropriate for good crop or forest production purposes based on Best Management Practices.

2. "Agricultural land" means any land managed for the production of food, animal feed, or fiber crops, including timber and wood products.

3. "Agronomic rate, silvicultural rate, and horticultural rate" is that application rate of solid waste which supplies the amount of one or more plant nutrients needed for good crop and forest growth or which will neutralize excess soil acidity; but the nutrient requirement is not exceeded to the extent that groundwater exceeds applicable South Carolina groundwater quality standards.

4. "Bark" means the outer covering of the woody stems, branches, roots, and the main trunks of trees and other woody plants.

5. "Certified Laboratory" means a laboratory that has been certified by the State Environmental Laboratory Certification Program to perform specific analyses. All analyses required by this Regulation to be performed by a Certified Laboratory must be done by the methodology outlined in the most current issue of the EPA Publication SW-846 "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods".

6. "Class I Solid Waste," for the purposes of this regulation, means those solid wastes which have the potential to add some nutrient and/or pH adjustment benefit to the soil and require permitting by the Department prior to land application of that waste, e.g., wood ash, coal ash, green liquor dregs, and slaker grit.

7. "Class II Solid Waste," for the purposes of this regulation, means those solid wastes which, due to lack of substantiating data needed to calculate agronomic rate or to document that the material is non-toxic to plants and wildlife normally associated with the crop ecosystem, require issuance of a Department Research, Development, and Demonstration Permit pursuant to R.61-107.10.

8. "Class III Solid Waste," for the purposes of this regulation, means those solid wastes which have less potential to add nutrients to the soil or correct soil acidity than Class I wastes, and are considered to be innocuous with regard to effects on soil, plants and water resources when applied at approved rates. Prior to application, registration by the Department in lieu of permitting is required for Class III wastes, e.g., cotton mote waste, cotton gin trash, bark, woodyard waste, flume grit.

9. "Class IV Solid Waste," for the purposes of this regulation, means those solid wastes used for land reclamation and other projects when the application rate exceeds ten (10) dry tons per acre per year and scientific/technical data is submitted to ensure the proposed application rate will have no detrimental impact on the environment and public health, and is non-toxic to plants and wildlife normally associated with the crop ecosystem. Class IV solid wastes require permitting by the Department prior to application.

10. "Coal ash" means the residue remaining after combustion of coal and includes bottom ash, fly ash, boiler slag and flue gas desulfurization ("FGD") products.

11. "Commercial fertilizer," as defined in the South Carolina Fertilizer Law of 1954, S.C. Code Section 46-25-20, means any substance containing one or more recognized plant nutrients which are used for plant nutrient content and designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, and wood ashes.

12. "Cotton gin trash" means the residual material left as a result of ginning and cleaning cotton; it includes burs, stems, leaves, weed seed, waste cotton fiber, other plant material, and soil.

13. "Cotton mote waste" means the residual material remaining after processing of cotton mote and residue from cotton carding operations; it includes immature cotton fiber and many of the same materials found in cotton gin trash.

14. "Cumulative metal loading rate" means the maximum amount of an element which can be applied to an area of land.

15. "Department" means the South Carolina Department of Environmental Services.

16. "Flume grit" means a mixture of tree bark, sand, soil, small twigs and leaves, and other debris that settles out of water used in a woodyard log flume.

17. "Generator" means any person who produces solid waste that is land applied.

18. "Green liquor dregs" means residues from the paper pulp-making process removed by sedimentation from green liquor clarification. The material is predominantly insoluble carbonates, oxides and sulfates of calcium, magnesium, aluminum and silicon.

19. "Horticultural" means land used for production of flowers, shrubs, fruits and ornamentals.

20. "Inorganic constituent" is one of the ninety-two (92) naturally occurring chemical elements or combination of those elements; generally, this excludes constituents which consist of carbon compounds other than carbonates.

21. "Land application" means the spreading of non-hazardous solid waste on the land surface and/or the mechanical incorporation of non-hazardous solid waste into the soil at agronomic or silvicultural rates.

22. "Land Reclamation" means the restoration of land for useful purposes and protection of the natural resources of the surrounding area by establishing on a continuous basis the vegetative cover, soil stability, water conditions, and the safety conditions of the area.

23. "Lime" means calcium carbonate or other calcium and magnesium compounds or mixtures which are alkaline in nature and used to neutralize excess soil acidity.

24. "Metal," for purposes of these regulation, means any of the eight (8) naturally occurring elements as listed in Section C.13., and which include arsenic, cadmium, copper, lead, mercury, nickel, selenium, and zinc.

25. "Open dumping" means any unpermitted solid waste disposal activity.

26. "Pasture" means land used for grazing livestock or forage crop production.

27. "Permit" means the process by which the Department can ensure cognizance of, as well as control over, the management of solid wastes.

28. "Person" means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.

29. "Representative sample and representative analysis," for the purposes of this regulation, mean that the chemical analyses of at least three samples (each sample being a composite of several subsamples) shall be used to calculate the amount of waste to be applied to a specific area for crop production purposes with a tolerance of $\pm 25\%$, unless otherwise approved by the Department. That tolerance applies to whichever constituent or characteristic, such as alkalinity, metal concentration, or nitrogen content, that limits or establishes the application rate.

30. "Silvicultural" means land used for growing trees, i.e., forestry.

31. "Slaker grit" means the unburned residues and particulate, predominantly carbonates, oxides and sulfates of calcium, magnesium and sodium removed from the causticizing process that recycles green liquor to white liquor for making paper pulp.

32. "Solid waste," for the purposes of this regulation, means any garbage, refuse, or other discarded material from industrial, commercial, mining, agricultural, silvicultural, and horticultural operations and from community activities. This term does not include solid or dissolved material in domestic sewage, recovered materials, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, 42 USCA 2011 et seq. Also excluded from this definition are application of fertilizer and animal manure during normal agricultural, silvicultural, and horticultural operations, or refuse as defined and regulated pursuant to the South Carolina Mining Act, S.C. Code Section 48-20-10, et seq., including processed mineral waste, which will not have a significant adverse impact on the environment.

33. "Soluble salts" means the amount of chemical constituents in non-hazardous solid waste which are readily soluble in water as estimated by electrical conductivity.

34. "Surface water body," for the purposes of this regulation, means any body of water on the land's surface which holds visible water for greater than six (6) consecutive months, excluding drainage ditches, sedimentation ponds and other man-made operational features on the site.

35. "Total alkalinity" means a measure of the ability of a substance to neutralize acidity and is expressed as the calcium carbonate equivalent.

36. "Wood ash" means the residue derived from the combustion of wood, wood waste, bark or other plant tissue or products, including both bottom ash, fly ash and their mixtures.

37. "Woodyard wastes" means non-contaminated residues from woodyard operations, which may include bark, portions of tree limbs and logs, sand or soil, sawdust and wood chips.

C. General Provisions. The land application of all solid wastes, i.e., Classes I, II, III & IV shall be in accordance with the requirements established in this section unless otherwise stated.

1. Open dumping of solid waste is prohibited. Land application shall only be approved on land being managed for agricultural, silvicultural, or horticultural production and land reclamation projects.

2. Solid waste shall not be land applied except in accordance with the requirements established in this regulation.

3. The Department may impose more stringent requirements based on scientific and/or technical data than those established in this regulation or may issue variances on a case-by-case or site-specific basis when necessary to protect human health and/or the environment from unintended consequences associated with site characteristics or unusual characteristics of a specific solid waste.

4. The land application of solid waste shall adhere to all Federal, State and local zoning, land use and other applicable ordinances, regulations and laws.

5. If at any time the Department obtains quantitative data indicating that land application of solid waste poses an actual or potential threat to public health or the environment, or to threatened or endangered species, upon notification by the Department, the generator, applicator, and landowner shall cease activities, evaluate the extent of the problem, and implement a corrective action program approved by the Department.

6. All vehicles used to transport solid waste for the purpose of land application shall be constructed and maintained so as to minimize dropping, sifting, blowing or other escapement of solid waste from the vehicle and shall be maintained and operated in accordance with all local, State, and Federal regulations.

7. Solid waste shall not be applied to flooded, ponded, frozen or snow-covered grounds.

8. Unless part of a normal or ongoing agricultural, silvicultural or horticultural operation, exempted by 33 USC 1345 of the Clean Water Act, land application of solid waste shall be in compliance with the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency requirements concerning wetlands.

9. For all wastes with the exception of Class III (i.e., cotton gin trash, cotton mote waste, bark, flume grit, etc.) a twelve (12) inch separation from the water table and the solid waste application zone shall be maintained during the actual application period. For Classes II and IV, the presence of the water table shall be determined based on interpretation of the data from a minimum of three (3) hand auger borings at least three (3) inches in diameter to a depth of two (2) feet. These holes shall be bored at the lowest point in the proposed application area and at two (2) other points in the proposed application area. The borings shall be covered and allowed to stand for twenty-four (24) hours. The water level in the borings shall be reported to the Department with the permit request.

10. The waste generator of Classes I and III shall ensure that the boundary of application shall not extend closer than the buffers outlined below. Variances may be requested and granted on a case-by-case basis upon submittal of written documentation that the variance will not cause an environmental or public health concern. (The buffer requirements for Classes II and IV are outlined in Sections E. and G. of this regulation.)

- a. Fifty (50) feet of any property line. When the property borders a paved public two-lane road, the application shall not extend closer than fifty (50) feet from the center of the road;
- b. One hundred (100) feet of any residence;
- c. Five hundred (500) feet of any school, day-care center, hospital or recreational park area;
- d. One hundred (100) feet of any surface water body; and,
- e. One hundred (100) feet of drinking water wells.

11. The land application of solid waste shall be conducted in a manner to:

- a. Inhibit the harborage of flies, rodents, and other vectors;
- b. Prevent conditions for transmission of diseases to man and/or animals;
- c. Minimize runoff, prevent water pollution and prevent the escape of the solid waste to waters of the State; and,

d. Minimize objectionable odors, dust, unsightliness, and aesthetically objectionable conditions, and prevent the accumulation of materials in an untidy and unsafe manner so as to become a fire, human health, environmental, and/or safety hazard.

12. Analyses of Class I, II and IV solid wastes required by this regulation for any parameter shall be analyzed by a laboratory certified for those parameters by the State Environmental Laboratory Certification Program unless otherwise noted in the regulation.

13. Solid wastes shall not be land applied when cumulative lifetime loads for heavy metals exceed the limits outlined below.

CUMULATIVE LIFETIME LOADING RATES

<u>Metal</u>	<u>lb/ac</u>	<u>kg/ha</u>
arsenic	37	41
cadmium	35	39
copper	1370	1500
lead	274	300
mercury	15	17
nickel	383	420
selenium	91	100
zinc	2550	2800

The Department may delete the requirement for any of the analyses for metals listed above if it can be demonstrated that a metal(s) is not expected to be contained in or derived from the waste to be land applied in concentrations and amounts that would cause environmental pollution or deterioration of soil quality. Likewise, the Department may require analysis of additional parameter(s) if it is demonstrated that a metal is expected to be contained in or derived from the waste to be land applied at a level that could present environmental and health problems at the proposed rate of application.

14. If other wastes are subsequently applied to the proposed location, documentation to include soil analyses performed by a Certified Laboratory shall be submitted to the Department with the annual report to show that the cumulative metal loads have not been exceeded.

15. The generator shall notify the Department prior to any changes in fuel source, process operations, or other changes that may alter the chemical characteristics of the waste.

16. The temporary storage of Class I and Class II solid wastes at the application site shall be limited to the amount designated for use at that location, and shall comply with the criteria outlined below if storage exceeds seven (7) days. (Temporary storage requirements for Class III and Class IV are outlined in Sections F. and G. respectively in this regulation.)

a. Temporary storage at the application site shall not exceed ninety (90) days;

b. Earthen dikes, berms or other suitable barriers shall be constructed around the perimeter of the storage area to minimize off-site movement of the waste materials;

c. Monitoring wells around the perimeter of the storage area may be required on a case-by-case basis upon written notification from the Department based on consideration of the type of waste, the amount of solid waste to be stored, topography of the land, and the potential impact to groundwater, etc. Any analyses required shall be performed by a Certified Laboratory;

d. Unless otherwise approved by the Department, materials to be stored for longer than thirty (30) days shall be covered with an impermeable barrier; and,

e. Temporary storage locations shall be reclaimed within one (1) year of construction by re-establishing the original groundline, incorporating into the soil any small amounts of residual materials by disking or plowing and revegetating the area for soil stabilization.

17. Solid waste being land applied shall be spread uniformly over the entire acreage approved for receipt of the waste at the rate approved for application. This is not intended to preclude banding or other commonly accepted methods routinely used for application of materials to soil for crop and silvicultural production purposes.

18. For a solid waste not specifically addressed in this regulation, a request and application for a permit to land apply the said waste shall be submitted to the Department. For the purposes of this regulation, the Department will classify solid waste for land application into the following four (4) categories:

a. Class I. Those solid wastes which require permitting by the Department prior to land application of that waste, e.g., wood ash, coal ash, green liquor dregs, and slaker grit.

b. Class II. Those solid wastes which, due to lack of substantiating data needed to calculate agronomic rate or to document that the material is non-toxic to plants, require issuance of a Department Research, Development, and Demonstration Permit pursuant to R.61-107.10.

c. Class III. Those solid wastes which require the generator to register the solid waste to be applied with the Department prior to any application, and subsequent notification to the Department prior to each application in lieu of permitting, e.g., cotton mote waste, cotton gin trash, bark, woodyard waste, flume grit.

d. Class IV. Those solid wastes used in land reclamation and other projects when the application rate exceeds ten (10) dry tons per acre per year and scientific/technical data is submitted to document the proposed application rate will have no detrimental impact on the environment and public health, and is non-toxic to plants and wildlife normally associated with the crop ecosystem. Class IV solid wastes require permitting by the Department prior to application.

19. The Department may reclassify waste from one class to another based on sound scientific data.

D. Class I Solid Waste for Land Application (e.g., coal ash, wood ash, green liquor dregs, slaker grit.)

1. The generator of the Class I solid waste shall obtain a permit from the Department for the land application of the specific waste(s) at proposed location(s) prior to commencing land application operations.

2. A permit for land application of a Class I solid waste shall be reviewed by the Department on an annual basis.

3. A request for a Department permit for the land application of a Class I solid waste shall include, but not be limited to, the following:

a. A completed permit application on a form provided by the Department;

b. A county map(s) showing the location of the proposed application site(s);

c. A chemical analysis (representative analysis) of the waste material to be land applied. This chemical analysis shall be conducted on samples collected within the last three (3) months and include the parameters listed below. This sample shall be a representative sample of the waste material to be applied. New representative samples shall be analyzed if there are changes in fuel source, process operations, or other changes which would alter the chemical characteristics of the waste. The frequency of sampling and the number of sample analyses needed to establish a representative analysis will vary according to the uniformity and consistency of the waste. At a minimum, the determination of representative analysis shall be reassessed each year but shall be sufficiently frequent and extensive so as to comply with Section B.29 of this regulation, the definition for "representative sample and representative analysis".

(1) The following parameters shall be analyzed by a South Carolina Certified Laboratory certified for these parameters:

(a) Total alkalinity;

(b) Concentrations of the following metals:

arsenic	cadmium
copper	lead
mercury	nickel
selenium	zinc

(c) Total Kjeldahl nitrogen, nitrate-nitrogen, and ammonium-nitrogen;

(2) The following parameters shall be analyzed by an Agricultural Laboratory:

- (a) Electrical conductivity of a saturated extract; and,
- (b) Soluble boron, sodium, and sulfate;

d. A soil test from each proposed application site performed by an Agricultural Laboratory for agricultural purposes shall be submitted to the Department unless specifically exempted in the Department permit. The soil sample(s) shall be representative of the field(s) to which the waste will be applied. The soil sample shall be collected subsequent to the most recent application of fertilizer, lime, and other material which would alter the soil test results but no more than six (6) months prior to submittal of the data. This analysis shall include a recommendation for lime and plant nutrients needed or appropriate for good crop or forest production purposes based on Best Management Practices (BMPs) and the parameters listed below. (BMPs are available from the State Extension Service, various governmental agencies involved in management of agricultural, silvicultural or horticultural lands, Certified Crop Advisers, registered foresters, soil scientists, and agronomists.)

- (1) pH;
- (2) Lime requirement; and,
- (3) Available phosphorus and potassium.

e. An application plan detailing:

- (1) Rates to be applied at each location, expressed on an areal application basis;
- (2) Cropping plan and proposed schedule for each application;
- (3) Application method and safeguards to limit soil loss; and,
- (4) Equipment to be used for uniform application.

4. To add additional application sites to the permit, the generator shall request a permit modification prior to application. The information listed below shall be submitted to the Department for approval. A variance of Item 4.b. and 4.c. below may be requested once a compliance history is established. Variances will be based on past compliance history, the consistency of the waste stream, the consistency of the soils, the consistency of crops, and submittal of scientific data to document that the application program will have no adverse impact on the environment and public health, and is non-toxic to plants and wildlife normally associated within the crop ecosystem.

- a. A county map(s) showing the location of each proposed application site;
- b. A soil test from each application site as outlined in Section D.3.d. above; and,
- c. An application plan as outlined in Section D.3.e. above.

5. Class I Application Rates:

a. Unless otherwise approved by the Department, application rates for Class I solid wastes shall not exceed ten (10) dry tons per acre per year on cultivated crop or forest lands or five (5) dry tons per acre per year on pasture land in which the waste is not incorporated into the soil surface layer unless otherwise limited to a lower rate by soil test recommendation, agronomic rate, or metal loading. For example, nitrogen, boron, sodium, or soluble salts content and alkalinity may limit application rate to less than ten dry tons per acre per year; and,

b. Requests for application rates exceeding the limits outlined above will be reviewed on a case-and site-specific basis. Such projects may be considered if accompanied by appropriate soil and crop monitoring data for purposes of establishing relationships between soil physical characteristics and solid waste application rates, or relationships between long term, repeated applications and mobility or plant availability of elemental constituents of the solid waste or chemical processes in soil. Monitoring data obtained from such projects shall be assembled into a technical report and submitted to the Department. Requests for changes in application plans or locations shall be submitted in writing to the Department for review, consideration, and approval.

6. The following potential rate limiting factors shall establish the amount of waste that may be land applied. The application of waste shall not cause the soil pH to significantly fall below or rise above the range indicated. In addition, the application of waste shall not add more than the indicated amount of soluble sulfate, sodium, or boron. Nutrient limits are those recommended by the Clemson Cooperative Extension Service.

<u>FACTOR</u>	<u>CONSTITUENT</u>	<u>LIMIT</u>
pH (soil)		The application of waste shall not cause the soil pH to significantly fall below or rise above the range of 5.0 to 7.0.
Soluble Salts:		
	boron	4 lbs/acre; readily soluble boron as determined by hot water extraction
	sulfate	300 lbs/acre
	sodium	Less than 15% of base saturation of soil
Plant Nutrients:		Agronomic crops - consult Circular 476, Co-operative Extension Service, Clemson University, Clemson, 1982. The recommendations for nitrogen, phosphorus, and potassium are provided with agricultural soil tests. In addition, recommendations may be obtained from the local County Extension Office, a Certified Crop Adviser, an agronomist or soil scientist, or the Faculty of Soils at Clemson University. Silvicultural sites - recommendation for nitrogen and other nutrients may be obtained from the Forest Resources Department at Clemson University, Area County Extension Agents for Forestry, or professional foresters with training in nutrient management.
Metals		As specified in Section C.13 of this regulation.

7. Unless otherwise approved by the Department, Class I solid waste may be applied to the same location more frequently than once each year as long as the total amount applied in any 12-month period does not exceed ten (10) dry tons per acre, if one of the factors cited above relating to agronomic rate or metal loading does not otherwise limit the loading rate.

8. No less than twenty-four (24) hours prior to land application of a Class I solid waste at an approved location, the generator shall notify the Department's EQC District Office and provide the following information:

- a. The location to receive the application;
- b. An estimate of the volume of waste to be land applied during the project;
- c. The anticipated date to begin application activities; and,
- d. The anticipated duration of the application activities.

9. Monitoring Requirements for Class I Solid Waste.

a. Solid Waste. Annually, or more frequently if necessary to document the waste concentration within a tolerance of $\pm 25\%$, a new chemical analysis of a representative sample of the solid waste shall be submitted to the Department with the annual report. If there are substantive changes in fuel source, process operations, or other changes which would alter the chemical characteristics of the waste, additional sampling shall be required at that time. This analysis shall include the parameters listed in Section D.3.c.(1) of this regulation performed by a Certified Laboratory and those parameters listed in Section D.3.c.(2) performed by an Agricultural Laboratory.

b. Soil Analyses. Prior to a subsequent application of the solid waste, soil samples shall be analyzed by a Certified Laboratory for whichever constituent(s) or parameter(s) limited the previous application. The soil sample from pastures shall be taken from the surface 2-3 inches. Samples from cultivated fields and forested landscapes shall be taken from the surface 6 inches. If

nitrogen was the limiting constituent, the soil sample shall be taken to a depth of 4 feet and divided into five subsamples (0-6, 6-12, 12-24, 24-36, and 36-48 inches) for analysis of ammonium-nitrogen and nitrate-nitrogen.

10. Reporting Requirements. Generators of Class I solid waste that is land applied shall maintain and report the information as outlined below.

a. The generator shall submit to the Department the following information in the form of an annual report for the period of July 1 through June 30. This report shall be submitted to the Department on or before August 15th and shall include:

(1) Any chemical analyses of the wastes performed during the reporting period subsequent to the original data submitted with the permit application request;

(2) Soil analyses for all locations that received an application of solid waste subsequent to the application of the amount of waste approved for the initial 12-month period, pursuant to Section D.9.b. above; and,

(3) The total amount of solid waste in tons land applied during the reporting period; and,

b. The generator shall maintain on site the following application site information and shall submit to the Department upon request:

(1) Location of the site(s) that received solid waste applications during the reporting period;

(2) Amount of solid waste applied to each site;

(3) Number of acres treated at each site;

(4) Date of application(s) at each site; and,

(5) The crop being grown on the application site.

E. Class II Solid Waste for Land Application.

1. The Department may issue a Research, Development, and Demonstration Permit (RD&D Permit) in accordance with Regulation 61-107.10 for the land application of Class II solid waste. RD&D Permits will be issued for the purpose of gathering soil and crop information when documentation and data are unavailable to ensure that:

a. Land application of a particular solid waste will have no detrimental impact to the environment or public health; and,

b. Application rates that exceed 10 tons per acre per year on cultivated or forest land and 5 tons per acre per year on pasture land will have no detrimental impact to the environment or public health.

2. Land application of Class II solid waste will be considered by the Department on a case-and site-specific basis.

3. Unless otherwise defined in the Department permit, the boundary of a Class II solid waste application shall not extend closer than:

a. One hundred (100) feet of any property line. Variances may be requested and granted on a case-by-case basis upon submittal of written consent from the adjacent landowner(s).

b. One hundred (100) feet of any residence;

c. Five hundred (500) feet of any school, day-care center, hospital or recreational park area;

d. One hundred (100) feet of any surface water body; and,

e. One hundred (100) feet of drinking water wells.

4. Class II solid waste applications shall address the following:

a. Relationships between soil physical characteristics and the solid waste application rates; or,

b. Relationships between long term, repeated applications and mobility or plant availability of elemental constituents of the solid waste or chemical processes in soil.

5. Monitoring data obtained from Class II applications shall be submitted to the Department in the form of a technical report concerning the effectiveness and the environmental effect of the application. This report will be reviewed by the Department and an approved independent scientist(s) prior to determining the acceptability of the solid waste for land application and/or the

proposed application rate. If the research and demonstration project is successful, the Department may classify the waste as either a Class I, Class III or a Class IV waste for the purposes of this regulation.

6. No less than seventy-two (72) hours prior to land application of a Class II solid waste at an approved location, the generator shall call the Department's EQC District Office and provide the following information:

- a. The location to receive the application;
- b. An estimate of the volume of waste to be land applied during the project;
- c. The anticipated duration of the application activities; and,
- d. An implementation schedule.

F. Class III Solid Waste for Land Application (e.g., cotton mote waste, cotton gin trash, bark, woodyard waste, flume grit.)

1. Prior to land application of a Class III solid waste, the generator shall submit a request to the Department for registration of a specific solid waste. Registration in lieu of permitting is required for land application of Class III solid wastes. This submittal shall include a qualitative description of the waste and brief explanation of why the waste is considered to be innocuous with regard to effects on soil and water resources.

2. Registration for Class III solid waste shall be renewed with the Department every five (5) years.

3. A brief report summarizing the experiences of those who operate the land application sites as to their degree of satisfaction with the practice shall be submitted to the Department every five (5) years from the date of registration with a request for renewal of registration.

4. Land application of Class III solid wastes shall not exceed ten (10) dry tons per acre per year without written authorization from the Department.

5. The land application of all Class III solid wastes shall be in accordance with the requirements in Section C. of this regulation.

6. No less than twenty-four (24) hours prior to land application of any permitted or registered solid waste at an approved location, the generator shall call the Department's Environmental Quality Control District Office and provide the following information:

- a. The location to receive the application;
- b. An estimate of the volume of waste to be land applied during the project;
- c. The anticipated date to begin application activities; and,
- d. The anticipated duration of the application activities.

7. Temporary Storage.

a. The temporary storage of a registered Class III solid waste at the application site prior to application shall not exceed six (6) months. Appropriate measures shall be taken to prevent fires and to control mosquitoes and rodents in order to protect the public health and welfare, and to prevent public health nuisances associated with the waste being temporarily stored; and,

b. Temporary stockpile volumes shall be limited to the amount designated for use at that location.

G. Class IV Solid Waste for Land Application/Reclamation. Class IV solid wastes are those solid wastes used for land reclamation and other projects when the application rate exceeds ten (10) dry tons per acre per year and scientific/technical data is submitted to document that the proposed application rate will have no detrimental impact on the environment and public health, and is non-toxic to plants and wildlife normally associated with the crop ecosystem. Solid wastes used in land reclamation and other projects when the application rate is less than ten (10) dry tons per acre per year shall be classified as either Class I or III, as appropriate.

1. The generator of the Class IV solid waste shall obtain a permit from the Department for the land application of the specific waste(s) at proposed location(s) prior to commencing land application/reclamation operations.

2. A permit for land application of a Class IV solid waste shall be reviewed by the Department on an annual basis.

3. A request for a Department permit for the land application of a Class IV solid waste shall include, but not be limited to, the following:

- a. A completed permit application on a form provided by the Department;
- b. A 7.5 minute quadrant map (U.S. Geological Survey topographic map, including the legend and name of the quadrant) with the proposed application site(s) identified;
- c. A site plan on a scale of four (4) inches per mile for each application site. This map shall at a minimum identify the following:

- (1) Location of surface water bodies, dry runs, wetlands, the location of the 100-year flood plain boundaries, and other applicable details regarding the general topography of the application site and immediately adjacent properties;

- (2) Land use immediately adjacent to the boundaries of the proposed site to demonstrate compliance with buffer requirements including the location of all homes, schools, hospitals, recreational park areas, drinking water wells, and roads;

- (3) Restricted or excluded areas; and,

- (4) Proposed temporary storage area(s);

d. A Chemical analysis (representative analysis) of the waste material to be land applied. This chemical analysis shall be conducted on samples collected within the last three (3) months and include the parameters listed below. This sample shall be a representative sample of the waste material to be applied. New representative samples shall be analyzed if there are changes in fuel source, process operations, or other changes that would alter the chemical characteristics of the waste. The frequency of sampling and the number of sample analyses needed to establish a representative analysis will vary according to the uniformity and consistency of the waste. At a minimum, the determination of representative analysis shall be reassessed each year but shall be sufficiently frequent and extensive so as to comply with Section B.29 of this regulation, the definition for "representative sample and representative analysis".

- (1) The following parameters shall be analyzed by a South Carolina Certified Laboratory certified for these parameters:

- (a) Total alkalinity;

- (b) Concentrations of the following metals:

arsenic	cadmium
copper	lead
mercury	nickel
selenium	zinc

- (c) Total Kjeldahl nitrogen, nitrate-nitrogen, and ammonium-nitrogen;

- (2) The following parameters shall be analyzed by an Agricultural Laboratory:

- (a) Electrical conductivity of a saturated extract; and,

- (b) Soluble boron, sodium, and sulfate;

e. A soil test from each proposed application site performed by an Agricultural Laboratory for agricultural purposes shall be submitted to the Department unless specifically exempted in the Department permit. The soil sample(s) shall be representative of the field(s) to which the waste will be applied. The soil sample shall be collected subsequent to the most recent application of fertilizer, lime, and other material which would alter the soil test results but no more than six (6) months prior to submittal of the data. This analysis shall include a recommendation for lime and plant nutrients needed or appropriate for good crop or forest production purposes based on Best Management Practices (BMPs) and the parameters listed below. (BMPs are available from the State Extension Service, various governmental agencies involved in management of agricultural, silvicultural or horticultural lands, Certified Crop Advisers, registered foresters, soil scientists, and agronomists.)

- (1) pH;
 - (2) Lime requirement; and,
 - (3) Available phosphorus and potassium.
- f. An application plan detailing:
- (1) Rates to be applied at each location, expressed on an areal application basis;
 - (2) Cropping plan and proposed schedule for each application;
 - (3) Application method and safeguards to limit soil loss; and,
 - (4) Equipment to be used for uniform application.
4. To add additional application sites to the permit, the generator shall request a permit modification prior to application. The following information shall be submitted to the Department for approval:
- a. A 7.5 quadrant map as outlined in Section G.3.b. above.
 - b. A site plan as outlined in Section G.3.c. above.
 - c. A soil test from each application site as outlined in Section G.3.e. above; and,
 - d. An application plan as outlined in Section G.3.f. above.
5. Unless otherwise defined in the Department permit, the boundary of a Class IV solid waste application shall not extend closer than:
- a. One hundred (100) feet of any property line. Variances may be requested and granted on a case-by-case basis upon submittal of written consent from the adjacent landowner(s).
 - b. One hundred (100) feet of any residence;
 - c. Five hundred (500) feet of any school, day-care center, hospital or recreational park area;
 - d. One hundred (100) feet of any surface water body; and,
 - e. One hundred (100) feet of drinking water wells.
6. Class IV application rates will be reviewed on a case-and site-specific basis. Such projects will be considered if accompanied by appropriate soil and crop monitoring for purposes of establishing relationships between soil physical characteristics and solid waste application rates, or relationships between long term, repeated applications and mobility or plant availability of elemental constituents of the solid waste or chemical processes in soil. Monitoring data obtained from Class IV projects shall be assembled into a technical report and shall be submitted to the Department at the end of the project.
7. The following potential rate limiting factors shall establish the amount of waste that may be land applied. The application of waste shall not cause the soil pH to significantly fall below or rise above the range indicated. In addition, the application of waste shall not add more than the indicated amount of soluble sulfate, sodium, or boron. Nutrient limits are those recommended by the Clemson Cooperative Extension Service.

<u>FACTOR</u>	<u>CONSTITUENT</u>	<u>LIMIT</u>
pH (soil)		The application of waste shall not cause the soil pH to significantly fall below or rise above the range of 5.0 to 7.0.
Soluble Salts:		
	boron	4 lbs/acre; readily soluble boron as determined by hot water extraction
	sulfate	300 lbs/acre
	sodium	Less than 15% of base saturation of soil
Plant Nutrients:		Agronomic crops - consult Circular 476, Cooperative Extension Service, Clemson Univer-

<u>FACTOR</u>	<u>CONSTITUENT</u>	<u>LIMIT</u>
		sity, Clemson, 1982. The recommendations for nitrogen, phosphorus, and potassium are provided with agricultural soil tests. In addition, recommendations may be obtained from the local County Extension Office, a Certified Crop Adviser, an agronomist or soil scientist, or the Faculty of Soils at Clemson University. Silvicultural sites - recommendation for nitrogen and other nutrients may be obtained from the Forest Resources Department at Clemson University, Area County Extension Agents for Forestry, or professional foresters with training in nutrient management.
Metals		As specified in Section C.13 of this regulation.
		<p>8. Class IV solid waste may be applied to the same location more frequently than once each year as long as the total amount applied to any location:</p> <ol style="list-style-type: none"> Does not exceed the cumulative lifetime metal loading rate; Does not exceed the annual application rate permitted by the Department; and, Is non-toxic to plants and wildlife normally associated with the crop ecosystem. <p>9. Requests for changes in application plans or locations shall be submitted in writing to the Department for review, consideration, and approval.</p> <p>10. The generator shall ensure that the Class IV solid waste is uniformly spread over the entire acreage and incorporated into the soil, e.g., that heavy equipment is available to properly spread and incorporate the waste.</p> <p>11. No less than seventy-two (72) hours prior to land application of a Class IV solid waste at an approved location, the generator shall notify the Department's EQC District Office and provide the following information:</p> <ol style="list-style-type: none"> The location to receive the application; An estimate of the volume of waste to be land applied during the project; The anticipated date to begin application activities; and, The anticipated duration of the application activities. <p>12. The temporary storage of Class IV solid wastes at the application site shall be limited to the amount designated for use at that location, and shall comply with the criteria outlined below if storage exceeds forty-eight (48) hours.</p> <ol style="list-style-type: none"> Temporary storage at the application site shall not exceed two (2) weeks; Earthen dikes, berms or other suitable barriers shall be constructed around the perimeter of the storage area to minimize off-site movement of the waste materials; Monitoring wells around the perimeter of the storage area may be required upon written notification from the Department on a case-by-case basis based on consideration of the type of waste, the amount of solid waste to be stored, topography of the land, and the potential impact to groundwater, etc. Any analyses required shall be performed by a Certified Laboratory; and, Temporary storage locations shall be reclaimed within thirty (30) days of construction by re-establishing the original groundline, incorporating into the soil any small amounts of residual materials by disking or plowing and revegetating the area for soil stabilization. <p>13. Monitoring Requirements for Class IV Solid Waste.</p> <ol style="list-style-type: none"> Solid Waste. Annually, or more frequently if necessary to document the waste concentration within a tolerance of $\pm 25\%$, a new chemical analysis of a representative sample of the solid waste shall be submitted to the Department with the annual report. If there are substantive changes in fuel source, process operations, or other changes which would alter the chemical characteristics of the waste, additional sampling shall be required at that time. This analysis shall include the

parameters listed in Section G.3.d.(1) of this regulation performed by a Certified Laboratory and those parameters listed in Section G.3.d.(2) performed by an Agricultural Laboratory.

b. Soil Analyses. Prior to a subsequent application of the solid waste, soil samples shall be analyzed by a Certified Laboratory for whichever constituent(s) or parameter(s) limited the previous application. The soil sample from pastures shall be taken from the surface 2-3 inches. Samples from cultivated fields and forested landscapes shall be taken from the surface 6 inches. If nitrogen was the limiting constituent, the soil sample shall be taken to a depth of 4 feet and divided into five subsamples (0-6, 6-12, 12-24, 24-36, and 36-48 inches) for analysis of ammonium-nitrogen and nitrate-nitrogen.

14. Reporting Requirements. Generators of Class IV solid waste that is land applied shall submit to the Department and to the landowner, an annual report for the period of July 1 through June 30. This report shall be submitted to the Department on or before August 15th and shall include the information outlined below. This information shall be maintained by the generator for a period not less than ten (10) years.

a. Any chemical analyses of the wastes performed during the reporting period subsequent to the original data submitted with the permit application request;

b. Any soil analyses performed during the reporting period subsequent to the original data submitted with the permit application request;

c. Application Site Information. The following information shall be included in the annual report:

- (1) Location of the site(s) that received solid waste applications during the reporting period;
- (2) Amount of solid waste applied to each site;
- (3) Number of acres treated at each site;
- (4) Date of application(s) at each site; and,
- (5) The crop(s) being grown on the application site(s).

H. Violations and Penalties. A violation of this regulation or any permit, order, or standard subjects the person to the issuance of a Department order or to civil enforcement action in accordance with S.C. Code Section 44-96-450. Willful violation of this regulation or any permit, order, or standard subjects the person to the issuance of a Department order or to criminal enforcement action in accordance with S.C. Code Section 44-96-450. Any person to whom an order is issued may appeal it as a contested case pursuant to R.61-72, Procedures for Contested Cases, and the S.C. Administrative Procedures Act, S.C. Code Section 1-23-310 et seq.

I. Severability. Should any section, paragraph, sentence, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

HISTORY: Added by State Register Volume 20, Issue No. 7, eff July 26, 1996. Amended by SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

61-107.17. Solid Waste Management: Demonstration-of-Need.

(Statutory Authority: 1976 Code §§ 44-96-10 et seq., 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024)

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A. Applicability.

1. This regulation establishes the criteria for the demonstration-of-need for the construction of new and the expansion of existing commercial Class Two solid waste landfills, commercial Class Three solid

waste landfills, commercial solid waste incinerators, and commercial solid waste processing facilities that process waste destined for disposal at Class Three solid waste landfills. Any solid waste management facility type listed herein that no longer has a valid permit to operate prior to the effective date of this regulation and attempts to reopen after the effective date of this regulation shall be considered a new facility and shall be required to demonstrate need pursuant to this regulation. Any existing facility that requests a change in classification or commercial status shall be considered a new facility and required to demonstrate need pursuant to this regulation. Commercial Class Three solid waste landfills permitted to accept only industrial waste that request approval to accept municipal solid waste shall be considered a new facility and required to demonstrate need pursuant to Sections C and D of this regulation.

2. This regulation does not apply to:

a. Class Two solid waste landfills, Class Three solid waste landfills, solid waste incinerators, or solid waste processing facilities that accept only waste generated in the course of normal operations on property under the same ownership or control as the solid waste management facility if the facility is classified as a non-commercial solid waste management facility. All other solid waste management facilities for the purpose of demonstrating need shall be considered commercial facilities;

b. Facilities that handle hazardous waste as defined by the Resource Conservation and Recovery Act (RCRA) and R.61-79, Hazardous Waste Management Regulations, and infectious waste as defined by R.61-105, Infectious Waste Management Regulations;

c. Air curtain incinerators that receive only wood waste and yard trash;

d. The processing of waste at the source of generation; and,

e. The processing of waste at permitted Class Three solid waste landfills destined for disposal at the landfill.

B. Definitions for the Purposes of this Regulation.

1. "Class Two solid waste landfills" means those landfills as described in Part IV, Section A of Regulation section 61-107.19. Solid Waste Management: Solid Waste Landfills and Structural Fill.

2. "Class Three solid waste landfills" means those landfills as described in Part V, Subpart A of Regulation section 61-107.19.

3. "Commercial solid waste management facility" means for the purposes of this regulation, all solid waste management facilities with the exception of non-commercial facilities.

4. "County or Regional Solid Waste Management Plan" means a solid waste management plan prepared, approved, and submitted by either a single county or a region, i.e., a group of counties, pursuant to the Solid Waste Policy and Management Act, S.C. Code Section 44-96-80 (1976, as amended).

5. "Consistency determination" means for the purposes of this regulation, a Department decision that a proposed solid waste project is or is not consistent with:

a. State and County/Region Solid Waste Management Plans;

b. Local zoning and land-use ordinances and regulations based on due consideration of written documentation from an appropriate local government official verifying that applicable local requirements have been met;

c. All other applicable local ordinances; and,

d. Buffer requirements pursuant to the appropriate Department regulation, e.g. Regulation sections 61-107.19, Part IV.B.1.a for Class Two solid waste landfills; 61-107.19, Part V, Subpart B.258.18.a for Class Three solid waste landfills; 61-107.12.E.8 for Solid Waste Incinerators; and 61-107.6.E.8 for Solid Waste Processors.

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

7. "Disposal rate" means the total amount, either by tonnage or volume, of waste received at the solid waste disposal facility on a fiscal year (July 1 - June 30) basis.

8. "Expand" or "Expansion" means any increase in the permitted volumetric capacity of an existing solid waste management facility.

9. "Non-commercial solid waste management facility" means a facility that manages only solid waste that is generated in the course of normal operations on property under the same ownership or control as the solid waste management facility.

10. "Planning area" means the area around a solid waste management facility that is used for determining the need for new and expansions of existing facilities.

11. "Region" means a group of counties which is planning to or has prepared, approved, and submitted a regional solid waste management plan to the Department pursuant to S.C. Code Section 44-96-80 (1976, as amended).

12. "Solid waste" means any garbage, refuse, or sludge from a waste treatment plant, water supply plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities. This term does not include solid or dissolved material in domestic sewage, recovered materials, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1964, as amended. Also excluded from this definition are application of fertilizer and animal manure during normal agricultural operations or refuse as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste, which will not have a significant adverse impact on the environment.

13. "Solid waste incinerators" means any engineered device used in the process of controlled combustion of solid waste for the purpose of reducing the volume, and/or reducing or removing the hazardous potential of the waste charged by destroying combustible matter leaving the noncombustible ashes, material and/or residue. For the purposes of this regulation, solid waste pyrolysis facilities, waste-to-energy facilities burning solid waste used for energy recovery, and air curtain incinerators that burn only wood waste and yard trash are not included in this definition.

14. "Solid waste management facilities" means Class Two solid waste landfills, Class Three solid waste landfills, solid waste incinerators, and solid waste processing facilities that process waste destined for disposal at Class Three solid waste landfills.

15. "State Solid Waste Management Plan" means the plan which the Department of Environmental Services is required to submit to the General Assembly and to the Governor pursuant to S.C. Code Section 44-96-60 (1976, as amended).

16. "Solid waste processing facility" means those facilities as defined in Regulation section 61-107.6, Solid Waste Management: Solid Waste Processing Facilities.

C. Demonstration-of-Need Requirements.

1. No permit to construct a new or to expand the volume or capacity of an existing commercial Class Two solid waste landfill, Class Three solid waste landfill, solid waste incinerator, or solid waste processing facility that processes waste destined for disposal at a Class Three solid waste landfill shall be issued until a final demonstration-of-need and a consistency determination are approved by the Department. In determining whether there is a need for new or expanded solid waste management facilities listed in Section C.2, or in determining increases in annual disposal rates, the Department will consider only solid waste generated in jurisdictions subject to the provisions of a county or regional solid waste management plan pursuant to S.C. Code Section 44-96-80. Any increase in the disposal rate shall not require a demonstration-of-need as long as the requested increase in disposal rate is less than the maximum disposal rate as determined by Section D.3.

2. Need shall be demonstrated for the following commercial solid waste management facilities:

- a. Class Two solid waste landfills;
- b. Class Three solid waste landfills;
- c. Solid waste incinerators; and,

d. Solid waste processing facilities that process waste destined for disposal at Class Three solid waste landfills.

3. Planning Area. The following planning areas shall be used by the Department for determining if the demonstration-of-need has been met for commercial facilities pursuant to this regulation:

Commercial Solid Waste Management Facility	Size of Planning Area Around Solid Waste Management Facility
Class Two solid waste landfills	20-mile radius
Class Three solid waste landfills	75-mile radius
Solid waste incinerators	75-mile radius
Solid waste processing facilities	75-mile radius

4. Requests for demonstration-of-need will be reviewed by the Department in the order in which they are received. If a request for demonstration-of-need is not accompanied by a request for a consistency determination pursuant to Section B.5 of this regulation, and need is demonstrated, the location for the proposed facility will be reserved for sixty (60) days. Failure to submit a consistency request within sixty (60) days of submittal of a demonstration-of-need request will result in termination of the reservation of the location for the proposed facility.

5. Demonstration-of-need determinations issued by the Department may be terminated, upon written notification by the Department, if either of the following occurs:

- a. Failure to show evidence of diligent pursuit of the appropriate solid waste permit or any related necessary approval, including proof of property control, within one hundred twenty (120) days of the applicant's submittal of the demonstration-of-need request; or,
- b. The Department denies the permit application.

6. Where, prior to the effective date of this regulation, the Department made determinations required under Part I.D.1.a. of South Carolina Regulation 61-107.19, such determinations shall remain applicable and become the agency's final determination subject to the appeal provision in Section F of this regulation and any applicable public notice and application requirements. All demonstration of need determinations are subject to termination criteria outlined in Sections C.4 and C.5 of this regulation regardless of when the determination was made.

D. Demonstration-of-Need Application Process.

1. Prior to submitting a permit application to the Department for a new or expansion of an existing Class Two solid waste landfill, Class Three solid waste landfill, solid waste incinerator, or solid waste processing facility that processes waste destined for disposal at a Class Three solid waste landfill, the applicant shall submit to the Department a demonstration-of-need request that includes the following information:

- a. The name of the facility. This name will be used in future correspondence to identify the facility;
- b. Applicant contact information to include the following:
 - (1) Name of applicant;
 - (2) Address;
 - (3) Telephone number;
 - (4) Fax number; and,
 - (5) E-mail address (optional);
- c. The geographical coordinates of the facility using the geographic center of the incinerator or processing facility as the reference point, or the geometric center of the landfill footprint as the reference point, as well as a brief description of the location. For expansions, the reference point shall be the center of the facility as assigned by the Department. Use either latitude/longitude coordinate system in degrees, minutes and seconds (preferred) or the Universal Transverse Mercator (UTM) coordinate system. Describe the method for determining coordinates;
- d. The type facility, i.e., Class Two solid waste landfill, Class Three solid waste landfill, solid waste incinerator, or solid waste processing facility;
- e. The annual disposal rate or throughput, as applicable, in tons/year (specify the desired annual tonnage within the applicable limits);
- f. The name of the host county/region; and,
- g. The applicant's signature.

2. In determining if there is a need for a new or expansion of an existing solid waste management facility, the Department will use the following criteria:

a. Where there are at least two (2) commercial solid waste management facilities of the same type within the planning area, no new capacity shall be allowed. Landfills in post-closure shall not be considered in determining need.

b. The Department reserves the right to review additional factors in determining need on a case-by-case basis.

3. In determining the maximum allowable yearly disposal rate for Class Three or Class Two solid waste landfills, the Department will use the following criteria:

a. Each new Class Three solid waste landfill permitted after the effective date of this regulation shall be initially allowed up to a maximum yearly disposal rate equal to the total amount of solid waste generated in the planning area for disposal in Class Three landfills as follows, unless otherwise provided in section C.6:

(1) 100 percent of the host county; and,

(2) 50 percent of each county, other than the host county, that falls wholly or partially within the 75-mile radius that does not have a Class Three landfill that accepts municipal solid waste located in that county.

(3) Solid waste generated in counties, other than the host county, that have at least one Class Three Landfill, is not counted in this calculation.

b. Each new Class Two solid waste landfill permitted after the effective date of this regulation shall be initially allowed up to a maximum yearly disposal rate equal to the total amount of solid waste generated in the planning area for disposal in Class Two Landfills as follows, unless otherwise provided in section C.6:

(1) 100 percent of the host county; and,

(2) 30 percent of each county, other than the host county, that falls wholly or partially within the 20-mile planning radius.

c. An existing Class Three solid waste landfill operating within 20 percent of the permitted yearly disposal rate stated in the current permit, as documented in the most recently published S.C. Solid Waste Management Annual Report when the request is made, may submit a request for an increase in the permitted yearly disposal rate and will be allowed to increase the maximum yearly disposal rate based on the following:

(1) A Class Three landfill that has a permitted annual disposal rate greater than 30 percent of the total amount of waste generated in all jurisdictions subject to the provisions of a county or regional plan pursuant to S.C. Code Section 44-96-80 that is destined for disposal in Class Three Landfills shall not receive any increase in its yearly annual disposal rate;

(2) A Class Three Landfill that has a permitted annual disposal rate less than or equal to 30 percent pursuant to Section D.3.c(1) shall receive the lesser of either: (a) 150,000 tons or (b) the increase in waste generated by all jurisdictions that are subject to the provisions of a county or regional plan pursuant to S.C. Code Section 44-96-80 for disposal at Class Three Landfills, since the last increase in the permitted annual disposal rate at said landfill, as reported in the most recently published S.C. Solid Waste Management Annual Report when the request is made.

d. An existing Class Two solid waste landfill operating within 20 percent of the permitted yearly disposal rate stated in the current permit, as documented in the most recently published S.C. Solid Waste Management Annual Report when the request is made, shall be allowed to increase the maximum yearly disposal rate based on the following:

(1) The lesser of either: (a) 50,000 tons or (b) the increase in waste generated in the planning area for disposal at Class Two landfills, since the last increase in the permitted annual disposal rate for said landfill, as reported in the most recently published S.C. Solid Waste Management Annual Report when the request is made or,

(2) A variance to the permitted annual disposal rate may be granted for a specified term, corresponding to the need, in the event of an emergency or documented large project with a specified term, as determined solely by the Department. This temporary increase in annual

disposal rate, if granted, is not considered by the Department when determining if a facility is within 20 percent of its permitted annual disposal rate.

e. In determining the amount of solid waste destined for disposal and solid waste generation amounts, the Department will use figures reflecting the previous fiscal year amount of solid waste as reported in the most recently published S.C. Solid Waste Management Annual Report, when the request is made, for the appropriate waste, (e.g. Class Two, Class Three, etc.). Annual disposal rates for facilities permitted prior to the effective date of this regulation shall not be reduced pursuant to Section D of this regulation.

4. The maximum allowable yearly throughput of a solid waste processing facility that processes waste destined for disposal at a Class Three solid waste landfill shall be equal to the total amount of solid waste destined for disposal that is generated in the host county and 50 percent of the waste generated in each county other than the host county, that falls wholly or partially within the 75-mile planning radius.

5. The yearly throughput for a solid waste incinerator shall be based on the manufacturer's design of the incinerator but shall not exceed 600 tons per day.

6. Variance in regard to demonstration of need. The Department shall grant a variance to the requirements of D.2 for Class Two and Class Three solid waste landfills according to the following conditions:

a. An operating Class Two or Class Three landfill shall receive a variance to construct a replacement Class Two or Class Three landfill at its permitted annual rate of disposal provided it meets all of the following conditions:

(1) For a Class Three landfill only, the primary business of the landfill since it began operation has been the disposal of "household waste" and "commercial waste" as defined in S.C. Regulation section 61-107.19.

(2) The landfill has a permit issuance date on or before the effective date of this Regulation.

(3) The landfill exhausts its permitted capacity at its current location (see 6.e below for timing).

(4) For the purpose of considering the location of a replacement facility under this section, the location for the replacement facility must be within the facility's existing planning area, provided that, if the planning area includes a portion of a county, the entire county will be considered to be part of the planning area. A Class Two or Class Three landfill, once replaced as provided for in Section D. 6.a., is no longer eligible to receive a variance for replacement under this section.

b. A Class Two or Class Three landfill shall receive a variance to expand the volume of an existing facility.

c. A facility receiving a variance under this section must meet the requirements of S.C. Regulation section 61-107.19 prior to receiving a permit.

d. No variance under this section will be granted to a facility that is under a unilateral administrative order issued by the Department until the issues associated with said order have been resolved.

e. An eligible facility shall apply to the Department for a variance to replace or expand the volume of an existing facility prior to exhausting: (1) its permitted capacity, or (2) the operational life of the facility. A facility shall not operate under an expansion variance and a replacement variance simultaneously, with the exception of a reasonable transition period as determined by the Department. A reasonable transition period is considered to be approximately one hundred eighty (180) calendar days.

7. The Department will advise the applicant and the host county or region in writing of its demonstration-of-need determination. Notice of the Department's demonstration-of-need determination for Class Two and Three landfills must be given in accordance with S.C. Regulation section 61-107.19.

E. Violations and Penalties.

A violation of this regulation or violation of any permit, order, or standard subjects the person to the issuance of a Department order, or a civil or criminal enforcement action in accordance with S.C. Code Section 44-96-450 (1976, as amended). In addition, the Department may impose reasonable civil

penalties not to exceed ten thousand dollars (\$10,000.00) for each day of violation of the provisions of this regulation, including violation of any order, permit or standard.

F. Appeals.

1. A Demonstration-of-need determination may be appealed at the time such determination is issued and may not be raised as part of an appeal of a decision on the permit.

2. A Department decision involving a demonstration-of-need may be appealed by an affected person with standing pursuant to applicable law, including S.C. Code Title 48, Chapter 6; and Title 1, Chapter 23.

G. Severability.

Should any section, paragraph, sentence, word, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

HISTORY: Added by State Register Volume 24, Issue No. 6, eff June 23, 2000. Amended by State Register Volume 33, Issue No. 6, eff June 26, 2009; SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

61-107.18. Solid Waste Management: Off-Site Treatment of Contaminated Soil.

(Statutory Authority: 1976 Code §§ 44-96-260, 44-96-290, 44-96-300, 44-96-310, 44-96-360, 44-96-450, 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024)

A. Applicability.

1. This regulation establishes minimum standards for the procedures, documentation, and other requirements which must be met for the proper site selection, design, operation, and closure of facilities treating contaminated soil and soil-like materials, here in after referred to as soil, which is not hazardous waste as defined by Resource Conservation and Recovery Act (RCRA), Public Law 94-580, and R.61-79, Hazardous Waste Management Regulations promulgated pursuant to the South Carolina Hazardous Waste Management Act, (SCHWMA), as amended, S.C. Code Ann. Section 44-56-10 et seq., and that has been excavated and is being treated off-site. Off-site treatment processes include, but are not limited to: biological, low-temperature thermal desorption, composting, prepared beds, bioreactors, soil slurry reactors, chemical oxidation, soil washing, incineration, and biopile technology. Other Department or other agency laws and regulations may apply to the treatment or handling of soil not addressed in this regulation and to other entities who might handle the soil before or after treatment.

2. This regulation is not applicable to on-site treatment of contaminated soil of any kind.

3. A research, development, and demonstration (RD&D) permit, pursuant to R. 61-107.10, Solid Waste Management: Research, Development, and Demonstration Permit Criteria, may be required for the treatment of soil based on the contaminant and the proposed treatment technology, and at the discretion of the Department.

B. Definitions As Used In This Regulation.

1. "Aerobic" means able to live, grow, or take place only when free oxygen is present.

2. "Biological treatment" means the degradation of contaminants of concern in soil by increasing the microbial activity through the aeration and/or addition of minerals, nutrients, and/or moisture.

3. "Biopile technology" means heaping contaminated soil into piles (or cells) and stimulating microbial activity within the soil through aeration and/or addition of minerals, nutrients, and/or moisture.

4. "Bioreactor" means a contained vessel in which biological treatment takes place, e.g., fermentor.

5. "BTEX" means the total chemical constituents benzene, toluene, ethyl benzene, and total xylenes.

6. "Chemical oxidation" means a chemical reaction that increases the oxygen content in a compound or a reaction in which an element or ion loses electrons, resulting in a more positive valence.

7. "Class I soil" means soil contaminated with one or more of the following contaminants: gasoline, jet fuels, diesel fuels, kerosene, distillate fuel oils (number one and number two fuel oils), and other contaminants as approved by the Department for this classification.

8. "Class II soil" means soil contaminated with one or more of the following contaminants: combination fuel oils (number three and number four fuel oils), residual fuel oils (number five and number six fuel oils), virgin lubricating oils, used oils, weathered oils, other petroleum based products not listed in Class I, and other contaminants as approved by the Department for this classification.

9. "Class III soil" means soil contaminated with any contaminant other than those listed under Class I or Class II.

10. "Composting" means treatment of contaminated soil by aerobic biodegradation of contaminants in an above ground, contained, or uncontained environment.

11. "Contaminated soil" means soil and soil-like material containing contaminants at a concentration that the Department has deemed poses a potential threat to human health and/or the environment and that does not constitute a hazardous waste, as defined by RCRA, the SCHWMA, and the Regulations promulgated pursuant thereto, as amended.

12. "Department" means the South Carolina Department of Environmental Services.

13. "Existing facility" means those facilities in place and operating on the effective date of this regulation.

14. "Ex-situ" means the excavation of contaminated soil from its original location followed by treatment off-site.

15. "Facility" means all contiguous land, structures, other appurtenances and improvements on the land used for treating and storing waste. A facility may consist of several treatment, storage, or disposal operational units.

16. "Generator" means any person whose act or process produces or results in contaminated soil.

17. "Incineration" means an ex-situ technology that uses heating to volatilize and combust organic constituents.

18. "In-situ" means the treatment of contaminated soil on-site without excavation of the soil.

19. "Leachate" means a liquid that has passed through or emerged from contaminated soil and contains soluble, suspended, or miscible materials removed from such soil.

20. "Low-Temperature Thermal Desorption" (LTTD), also known as "low-temperature thermal volatilization," "thermal stripping," and "soil roasting," means the ex-situ technology that uses heat to physically separate contaminants from excavated soil. Vaporized hydrocarbons may require treatment in a secondary treatment unit, such as an afterburner, prior to atmospheric discharge.

21. "New facility" means those treatment facilities not in place and operating on the effective date of this regulation.

22. "Off-site" means a location other than the property on which the contamination of the soil occurred and any contiguous property under the same ownership.

23. "On-site" means the property on which the contamination of the soil occurred and all contiguous property under the same ownership.

24. "Open-dumping" means any unpermitted solid waste disposal activity.

25. "Owner/operator" means the person who owns the land on which a solid waste management facility is located or the person who is responsible for the overall operation of the facility, or both.

25. "PAH" means polynuclear aromatic hydrocarbons

26. "Person" means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.

27. "Prepared beds" means a contained area above ground where soil can be tilled or variously manipulated to increase biological treatment, i.e., contained land farming.

28. "RD&D Permit" means a research, development and demonstration permit issued pursuant to R.61-107.10.

29. "Residence" means any structure, all or part of which is designed or used for human habitation, that has received a final permit for electricity, permanent potable water supply, permanent sewage disposal, and a certificate of occupancy, if required by the local government.

30. "Road base" means that portion of road construction which is overlain with a permanent impervious surface.

31. "Shipment" means all soil from the same release area.

32. "Soil-like material" means material, man-made or naturally occurring, that has good absorption capabilities and is used to absorb and bulk solid waste spills, e.g., kaolin clay, bentonite, kitty litter, sand, vermiculite.

33. "Soil slurry reactor" means biological or chemical treatment of soil by making a mixture with water and treating in a contained vessel.

34. "Soil treatment facility" means a facility that treats contaminated soil and soil-like material.

35. "Soil venting," means a method to remove volatile and semi-volatile contaminants from soil. A positive or negative air pressure is applied either passively or actively to soil to remove vapors which are appropriately treated.

36. "Soil washing" means an ex-situ process to mechanically scrub soil to remove contaminants. Soil particles are separated from soil in an aqueous-based system. The wash water may be augmented with leaching agents, surfactants, pH adjustment or chelating agents.

37. "TCLP" means Toxicity Characteristic Leaching Procedure, a laboratory test used to determine if a substance is a hazardous waste due to leachability. The TCLP (Method 1311) is published in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in R.61-79.260.11.

38. "TPH" means total petroleum hydrocarbons.

39. "Treatment" means the off-site manipulation of contaminated soil in a confined and regulated environment to bring the soil into compliance with standards established in this regulation.

40. "Used Oil" means any oil that has been refined from crude oil or synthetic oil that has been used, and as a result of such use is contaminated by physical or chemical impurities.

41. "Virgin oil" means oil that has never been used or weathered.

42. "Waste profile sheet" means a form filled out by the waste generator outlining specific information regarding the generator, generator's site location, generating process information, and a full waste characterization. This includes describing the chemical and physical (solid, liquid, or gas) characteristics of the solid waste, a description of the waste including a list of the chemical contaminants in the waste, analytical testing certification, quantity, and container size for proper disposal. The generator shall submit the waste profile sheet to the treatment facility for approval prior to shipment of soil pursuant to this regulation.

43. "Weathered oil" means oil that has been exposed to leaching and low-level biodegradation or biotransformation and soil chemical reactions for extended periods of time, resulting in a contaminant chemical composition that is no longer virgin oil.

C. General Provisions.

1. The siting, design, construction, operation, and closure activities for facilities that treat contaminated soil shall conform to the standards set forth in this regulation, unless otherwise approved by the Department. Engineering plans, specifications, reports and other documents approved by the Department during the review process shall become enforceable documents upon issuance of a permit pursuant to this regulation. Facilities shall be constructed as approved and permitted.

2. Prior to the construction of a new soil treatment facility, a permit shall be obtained from the Department pursuant to this regulation. Prior to the modification of an existing soil treatment facility, as-built drawings of the existing facility which have current Department approval shall be submitted in addition to plans and specifications of proposed modifications to the facility. Any modification to the design/operation of a facility that would change the language of the permit shall receive prior Department approval.

3. Prior to operation of a new permitted soil treatment facility or a permitted modification to an existing facility, the facility shall be inspected by the Department and receive operational approval.

4. The Department reserves the right to require the soil treatment facility to acquire an RD&D permit pursuant to Regulation 61–107.10 for any process or compound for which the information provided is deemed insufficient to establish the efficacy of the proposed process to the Department's satisfaction. If, after the two (2) years expiration of the RD&D permit, the process is proved to be a viable method for treating soil, a permit pursuant to this regulation may be issued for the process. Petroleum and other compounds that have been shown to be highly degradable via the proposed treatment process will not generally require a RD&D permit. A permit requested pursuant to this regulation may be denied should the process not be determined to be acceptable to the Department's satisfaction.

5. No later than six (6) months from the effective date of this regulation, existing soil treatment facilities shall submit to the Department a permit application with supporting documents as outlined in Section D of this regulation.

6. Failure to begin construction of the treatment facility within twelve (12) months of the issuance of the Department permit shall render that permit invalid.

7. Upon reasonable cause to suspect that the treatment facility and/or treatment process poses a threat to human health or the environment, the Department, upon notification to the owner/operator, may require the owner/operator to investigate and, if appropriate, develop and implement a corrective action program approved by the Department.

8. Soil treatment facilities shall demonstrate consistency with the host Region/County Solid Waste Management Plan pursuant to Section D. of this regulation.

9. Open dumping of contaminated soil is prohibited.

10. Soil treatment facilities shall adhere to Federal and State rules and regulations and local zoning, land use and other applicable local ordinances and OSHA requirements.

11. Transfer of ownership.

a. The Department may, upon prior written request, transfer a permit to a new owner or operator of a soil treatment facility where no other change in the permit is necessary. The proposed new owner or operator of a permitted soil treatment facility shall, at least forty-five (45) days prior to the scheduled change in ownership or operating responsibility, provide to the Department:

(1) Documentation of the new owner's name and address;

(2) Documentation of the name and address of the party responsible for the operation and maintenance of the facility, if different from the owner;

(3) A written agreement signed by the current owner/operator and the proposed new owner/operator indicating the intent to change ownership or operating responsibility of the facility. The agreement shall contain a specific date for the transfer of permit responsibility;

(4) Documentation indicating that the facility shall be operated in accordance with the existing permit in effect at the time of transfer;

(5) Documentation of financial assurance as required in Section E. of this regulation. The previous owner/operator shall maintain financial assurance responsibilities until the new owner/operator can demonstrate satisfactory compliance with the financial assurance requirements outlined in this regulation; and,

(6) A disclosure statement as required in Section D. of this regulation.

b. Upon approval of all documents required by Item 11.a. above, the Department shall transfer the permit from the current owner/operator of the facility to the new owner/operator.

c. A request for a permit modification shall be submitted with the permit transfer request, if the facility will not be operated in accordance with the approved plans. The permit modification shall be in accordance with all provisions of this regulation.

d. The new owner shall submit legal documentation to the Department of the transfer of ownership of the facility within fifteen (15) days of the actual transfer.

12. All chemical and biological analyses required by this regulation for submittal to the Department shall be analyzed by a laboratory certified by the Department for that particular parameter.

13. All analytical methods used shall be appropriate for the parameters being quantified given the sample matrix (gasoline and diesel range organics at a minimum.) Quantification of total petroleum hydrocarbons shall employ appropriate extraction methods and include both short and long chain hydrocarbons.

14. Approval from the State Toxicologist shall be required when intergeneric (i.e., bioengineered) microorganisms or pathogenic (i.e., disease-causing) microorganisms are used in the proposed technology.

15. A maintenance plan shall be submitted that describes how each major component of the soil treatment facility and all associated equipment shall be maintained at the facility, and how the facility shall be operated in accordance with its intended use.

16. It is incumbent on the soil treatment facility to ensure that any soil-like material is compatible with the approved treatment process. Any contaminants in the soil-like material shall be treated to acceptable standards.

D. Administrative Review. All off-site soil treatment facilities shall request and obtain a Department permit pursuant to this regulation.

1. The first phase of the Department's review is the administrative review. All permit requests submitted to the Department shall include three (3) copies of the following documents for administrative review:

a. A letter from the host region/county of the soil treatment facility stating that the facility is consistent with the host region/county's solid waste management plan;

b. A letter of proof of proper zoning and land use from the county or city;

c. A letter from the Office of Ocean and Coastal Resources Management (OCRM) stating that the project is consistent with the South Carolina Coastal Zone Management Plan if the proposed treatment facility is located in the coastal zone as defined by the OCRM or stating that the facility is exempt from this requirement because it is not located in that zone;

d. A letter from the Department's air program stating that the project is consistent with the goals of the South Carolina State Implementation Plan.

e. A disclosure statement, pursuant to S.C. Code Section 44-96-300, as amended. The Department may accept one disclosure statement for multiple facility permit applicants. Local governments and regions comprised of local governments are exempt from this requirement;

f. A cost estimate for complete closure of the facility. This estimate requires Department approval prior to the owner/operator establishing a financial assurance mechanism pursuant to Section E. of this regulation that shall ensure satisfactory closure of the facility;

g. A written request for any variances from the requirements of this regulation;

h. A completed permit application on a form provided by the Department, to include a brief description of the method of soil treatment;

i. Complete engineering plans and reports that are stamped by a South Carolina Licensed Professional Engineer in accordance with Section E. of this regulation; and,

j. A letter of approval from the State Toxicologist for the use of chemical and biological agents, if applicable.

2. When administratively complete, the Department will public notice the permit application and begin the technical review. Comments will be accepted throughout the technical review period.

E. Technical Review and Design Requirements. The Department's technical review of the permit application will involve the documents addressed in this section. All soil treatment facilities shall meet the criteria established in this section.

1. Siting Requirements.

a. Engineering Plans and Reports. The engineering plans and reports, pursuant to Section D.1.i. of this regulation, shall include the following documents:

(1) A site plan of the facility layout on a scale of not greater than two hundred (200) feet per inch clearly identifying conditions at the site. This plan shall at a minimum identify the following items:

(a) Identified on plan as “existing”: property boundaries and all existing site conditions to be utilized in the operation of the soil treatment facility including, but not limited to, structures, access roads, on-site roads, parking areas, loading and unloading areas, soil storage areas, processing areas, fences, and gates; and

(b) Identified on plan as “proposed”: all proposed site conditions that will be constructed including, but not limited to, structures, access roads, loading and unloading areas, soil storage areas, processing areas, fences, and gates; and,

(2) A location map that shows the location of all residences, schools, churches, day-care centers, hospitals, publicly owned recreational park areas, drinking water wells, monitoring wells, injection wells, roads, surface water bodies, dry runs, wetlands, the 100-year flood plain boundaries, and other applicable details regarding the general topography of the site and adjacent properties within one-fourth ($\frac{1}{4}$) mile of the proposed site’s property line.

b. Depending on conditions defined in Items E.1.a.(1)(a) and (b), and E.1.a.(2) above, the Department may require additional hydrogeological investigation prior to permit approval.

c. Site Standards. The site for a new soil treatment facility or expansion of an existing facility shall meet the standards outlined below, unless otherwise approved by the Department. Compliance with these standards shall be demonstrated in the engineering plans and reports referenced in Section E.1.a. of this regulation.

(1) A soil treatment facility located in a 100-year floodplain shall not restrict the flow of the 100-year flood as demonstrated on a 100-year flood plain map.

(2) A soil treatment facility shall be in compliance with the U.S. Army Corps of Engineers and the U. S. Environmental Protection Agency requirements concerning wetlands, where applicable.

(3) The soil treatment and storage area boundaries, as identified in the location map, shall not be located within:

(a) One hundred (100) feet of any property line;

(b) Two hundred (200) feet of any residence, school, church, day-care center, hospital or publicly owned recreational park area;

(c) Two hundred (200) feet of any surface water body which holds visible water for greater than six (6) consecutive months, excluding drainage ditches, sedimentation ponds and other operational features on the site; and,

(d) One hundred (100) feet of any drinking water well.

2. Facility Layout Requirements/Design Criteria.

a. Engineering Plans and Reports. The engineering plans and reports, pursuant to Section D.1.i. of this regulation, shall, at a minimum, include the following:

(1) All pertinent engineering drawings, on a scale no greater than one (1) foot per quarter inch, that identify and distinguish all existing and proposed construction of items (a) & (b) listed immediately below. Representative cross sections shall be used to show compliance with these requirements.

(a) The treatment process; and,

(b) The entire soil treatment facility, including, but not limited to, loading/unloading area(s), in-coming contaminated soil storage area(s), out-going treated soil storage area(s), soil processing area(s), impermeable floor, containment system(s), alarm system, fire fighting system, and leachate control system, if applicable.

(2) Technical details and specifications necessary to support the engineering drawings and operation plans for the facility including, but not limited to:

(a) A general operating plan including, but not limited to, a description of the methods of keeping all incoming shipments of contaminated soil segregated, the types and maximum

quantity of contaminated soil to be accepted on a yearly basis, the storage areas for in-coming contaminated and out-going treated soil, the method(s) of preventing releases to the environment, and the measures taken to prevent unauthorized dumping and access.

(b) A plan for handling process waste water generated by the facility, if appropriate.

(c) A description of the treatment process. This detailed description shall, at a minimum, specify the methodology of the process to address how each of the following criteria impacts the process:

- (i) Temperature(s)
- (ii) Concentrations of contaminants
- (iii) Microorganism activity
- (iv) Nutrients—including oxygen
- (v) Physical adjustments (mixing, tilling, etc.)
- (vi) Moisture
- (vii) pH adjustments
- (viii) Soil characteristics
- (ix) Concentrations of chemicals added
- (x) Process by-product(s), and
- (xi) Any other criteria applicable to the process to be used.

(d) A soil screening plan to ensure that the facility accepts only properly characterized soil that it is permitted to treat, and removes only the soil from the soil treatment facility that has been tested and meets the standards set forth in this plan. This portion of the plan shall, at a minimum, specify the following:

- (i) The criteria from which determinations are made on whether to accept or reject contaminated soil;
- (ii) The procedure and time frame that will be used to verify that waste profile sheets provided by the generator match all shipments of soil;
- (iii) The procedure and time frame that will be taken if an incoming shipment of contaminated soil does not match the waste profile sheet provided by the generator including, but not limited to, a description of how the shipment will be managed and stored or removed based on the type waste;
- (iv) The criteria used to determine whether the shipment of treated soil meets the standards for removal from the soil treatment facility;
- (v) The procedure for the proper handling, storage, and removal of all treated soil; and,
- (vi) Analytical procedures and protocols.

(e) Upon receipt of a petition, the Department may consider sampling reduction based on consistent demonstration of treatment results. The petition shall include technical justification and a proposed alternate sampling plan. Upon approval by the Department in writing, the facility's permit will be amended to reflect the change in sampling frequency and the new sampling plan may be implemented.

(f) A contingency plan that describes a technically and financially feasible course of action to be taken in response to contingencies during the operation of the facility. This plan shall set forth procedures to be employed during periods of non-operation, e.g., equipment breakdown which may require standby equipment, extension of operation hours, or diversion of shipments to other facilities. The plan shall be designed to minimize hazards to human health and the environment from fires, explosions, or any unplanned sudden or non-sudden release of potentially harmful constituents to air, soil or surface water.

(g) A detailed closure plan which shall identify the steps necessary to close the facility. It shall identify the components at the facility that will remain in-place and those that will be removed. The plan shall be amended whenever changes in operating plans or facility design

effect the closure plan. The plan shall address the satisfactory maintenance, closure and post-closure care, monitoring and/or corrective action, if appropriate.

(h) A plan for training personnel to perform their duties in a way that ensures the facility's compliance with this regulation and their health and safety.

b. Design Standards. Unless otherwise approved by the Department, all soil treatment facilities shall be designed in accordance with the following standards:

(1) Access to the facility shall be controlled through the use of fences, gates, berms, natural barriers, or other means to prevent unauthorized dumping and access;

(2) Contaminated soil awaiting processing shall be completely contained from the outside environment and shall be:

(a) Placed only on an impermeable surface, e.g., sealed concrete;

(b) Stored in such a manner as to prevent releases to the environment; and,

(c) Covered with either a structure or an impermeable cover.

(3) The Department may require the process area to be covered and containment barriers installed based on the technology approved. During processing, soil shall be:

(a) Placed only on an impermeable surface, e.g., sealed concrete; and,

(b) Maintained in such a manner as to prevent releases to the environment.

c. Operation Standards.

(1) The facility shall be operated and maintained in a manner which will protect the established water quality standards of the surface and ground waters, and the air quality standards.

(2) Dust, odors, fire hazards, litter and vectors shall be effectively controlled so they do not constitute nuisances or hazards.

(3) Personnel Training. The personnel training program shall at a minimum:

(a) Identify positions that will require training and a knowledge of the procedures, equipment, and processes at the facility;

(b) Instruct facility personnel in how to perform their duties in a way that ensures the facility's compliance with this regulation, including the proper procedures for handling unauthorized solid waste;

(c) Instruct facility personnel in the proper responses to all emergencies and require employees to become familiar with the contingency plan, emergency and safety equipment, emergency procedures and emergency systems; and,

(d) Document employee training. This documentation shall be maintained at the facility for all employees. Documentation of training shall include the following:

(i) The job title for each position related to solid waste management at the facility and the name of the employee filling each position;

(ii) A written job description for each position including the requisite skill, education or other qualifications, and duties of employees assigned to each position;

(iii) A written description of the type and amount of both introductory and continuing training that will be given to each employee; and,

(iv) Records that document the training and/or job experience completed by each employee. Training records for each employee shall be maintained at the facility for a minimum of three (3) years for all current personnel.

(4) Soil containing non-compatible contaminants shall not be mixed during processing.

(5) Any contaminated soil received that is not acceptable for treatment, based on the facility's permit, shall be removed from the facility within ten (10) days of receipt in accordance with an approved contingency plan. Should the facility receive known or suspected hazardous wastes, a representative of the facility shall call the appropriate Department EQC District Office within twenty-four (24) hours of receipt.

(6) A waste profile sheet shall be provided with each soil shipment received by the soil treatment facility.

(7) Leachate and washwater from a soil treatment facility, including soil storage areas, shall not be allowed to drain or discharge into waters of the State unless an effluent disposal permit, i.e., National Pollutant Discharge Elimination System (NPDES), No Discharge (ND), or Underground Injection Permit, has been granted by the Department.

(8) Treated soil stored outside shall be managed in such a manner as to comply with S.C. Regulation 61-9, Water Pollution Control Permits and the NPDES General Permit issued pursuant to Regulation 61-9, as amended.

(9) A construction permit from the Department's air program shall be required for the storage or processing of any soil that may cause the release of any regulated air pollutant unless an exemption is granted pursuant to S.C. Regulation 61-62.1.II.A, Air Pollution Control Regulations and Standards.

(10) Treated soils for restricted use shall be stored on a covered, nonporous surface.

(11) Emergency Preparedness. In addition to requirements set forth in the contingency plan, all soil treatment facilities shall, at a minimum:

(a) Provide access to fire equipment and make provisions for availability of local fire-fighting services;

(b) Be equipped with a device, e.g., telephone or hand held two-way radio, at the scene of operations capable of summoning emergency assistance from local police departments, fire departments, and State or local emergency response teams;

(c) Be equipped with portable fire extinguishers and other fire control equipment; and,

(d) Ensure that facility personnel are trained to respond effectively to all emergencies, including different types of fires, by familiarizing them with the contingency plan, emergency and safety equipment, emergency procedures and emergency systems.

(12) Signs. Signs shall be posted and maintained in conspicuous places which:

(a) Identify the owner, operator, or a contact person and telephone number in case of emergencies and the hours during which the facility is open for business;

(b) Identify that the facility is a soil treatment facility; and,

(c) Identify the valid SCDES Solid Waste Permit Number for the soil treatment facility.

(13) Financial Assurance. Prior to accepting contaminated soil, soil treatment facilities shall fund a financial responsibility mechanism acceptable to the Department to ensure the satisfactory maintenance, closure and post-closure care. A final closure cost estimate, based on third party costs to complete closure by disposing of the maximum quantity of material at a facility, shall be calculated annually and adjusted annually, as necessary. Local governments are exempt from this requirement until such time as federal regulations require such local governments or regions to demonstrate financial responsibility for such facilities and the Department promulgates regulations addressing this issue.

F. Standards.

1. General Requirements. Soil shall be treated in accordance with the following criteria:

a. Soil shall be treated to levels that are protective of human health and the environment as approved by the Department. Treatment standards shall be based in part upon the intended use of the soil after the treatment process is complete. It is the responsibility of the permitted treatment facility to provide to the user of the treated soil written notice stating the treatment goals achieved and the end use of the soil as approved by the Department, including any restrictions on the use of the soil that are included in the facility's permit or in this regulation.

b. Contaminated soil treated under the purview of this regulation shall not be used to grow edible food crops nor to supplement soil used for the purpose of growing edible food crops. Other agricultural uses of soil treated under this regulation shall require approval from the Department prior to use.

c. Soil treated under the purview of this regulation shall not contain benzene in excess of 5 ppb after treatment unless it can be demonstrated that the end use of the treated soil will not impact groundwater such that it would exceed 5 ppb benzene or cause an adverse risk to human health as determined by the Department. Any soil treated to >5 ppb benzene shall be for restricted end use to be approved by the Department.

d. The type, composition, breakdown products and potential affect to human health and the environment shall be provided for all materials or microorganisms introduced into the soil for treatment purposes. In addition, the breakdown products for the microorganisms and contaminants being treated in the process shall be clearly defined.

e. The Department may require additional soil testing and/or alternate treatment activities, and/or soil removal for proper disposal, if the permittee is unable to demonstrate that the treatment process is effective, or the process has failed to perform to design standards. Additional testing and/or treatment may be required if constituents are present in the soils for which the permitted treatment process will not be effective, e.g., metals.

f. Based on the nature of the treatment process and the types of soil proposed for treatment at the facility, the Department may require additional environmental monitoring to be performed at the facility. Likewise, additional engineering provisions may be required by the Department to ensure protection of human health and the environment.

g. Contaminated soil shall be categorized into three classes, i.e., Class I, Class II, or Class III, based on the contaminants present in the soil. Treatment levels to be achieved for each class of soil differ.

h. Soil treated under the purview of this regulation shall be used in a manner which minimizes contact with the seasonal high water table.

i. When facilities co-mingle compatible soils prior to treatment, the end use of the treated co-mingled soil shall be limited to the most conservative end use as determined from the approved end uses identified for each of the co-mingled soils by permit.

2. Class I. Class I soil is soil contaminated with one or more of the following contaminants: gasoline, jet fuels, diesel fuels, kerosene, and distillate fuel oils (number one and number two fuel oils.) Treatment levels for Class I contaminated soil shall depend on the planned end use of the soil after treatment processes are completed:

a. All Class I contaminated soil shall be analyzed for total petroleum hydrocarbons (TPH), and total benzene, toluene, ethyl benzene and xylene (BTEX).

b. Class I contaminated soil which is for restricted specific end uses as approved by the Department, e.g., as cover at municipal solid waste landfills, or in road base or similar types of construction, shall, unless otherwise approved by the Department, be treated to the following levels or below for TPH and BTEX:

<u>TPH</u>	<u>BTEX (total)</u>
200 ppm	20 ppm (with Benzene <5 ppb)

c. For all unrestricted end uses, Class I contaminated soil shall be treated to the following levels or below for TPH and BTEX:

<u>TPH</u>	<u>BTEX (total)</u>
10 ppm	1 ppm (with Benzene <5 ppb)

d. Alternate treatment levels may be specified by the Department based on the intended final use of the soil and the potential risk to human health and the environment.

e. The Department may require testing of incoming batches of contaminated soil and treated soil for additional parameters other than TPH and BTEX should there be reason to believe that other parameters of potential concern are present in the soil. Treatment levels for these additional parameters shall be determined by the Department on a case-by-case basis, taking end use into consideration and potential risk to human health and the environment.

3. Class II. Class II soil is soil contaminated with one or more of the following contaminants: combination fuel oils (number three and number four fuel oils), residual fuel oils (number five and

number six fuel oils), virgin lubricating oils, weathered oils, and used oils that have not been mixed with other waste. Treatment levels for Class II contaminated soil shall depend on the planned end use of the soil after treatment processes are completed:

a. All Class II soil shall be analyzed for TPH, BTEX (total), and polynuclear aromatic hydrocarbons (PAH.)

b. Class II contaminated soil, including contaminated soil with polynuclear aromatic hydrocarbons (PAH) levels that exceed those levels listed in the current EPA approved Risk Based Concentrations (RBC) tables as determined by the Department, shall be restricted to specific end uses as approved by the Department, e.g., as cover at municipal solid waste landfills, or in road base or similar types of construction. Unless otherwise approved by the Department, this soil shall be treated to the following levels or below:

TPH	BTEX (total)	PAH
200 ppm	20 ppm (with Benzene <5 ppb)	≥ RBC values

c. For all unrestricted end uses, Class I contaminated soil shall be treated to the following levels or below:

TPH	BTEX (total)	PAH
10 ppm	1 ppm (with Benzene <5 ppb)	< RBC values

d. Soil contaminated with used oil and soil contaminated with weathered oil shall be considered as Class II.a. soil and shall be restricted to specific end use, as approved by the Department.

e. Alternate treatment levels may be specified by the Department based on the intended final use of the soil and the potential risk to human health and the environment.

f. The Department may require testing of incoming batches of contaminated soil and treated soil for additional parameters other than TPH, BTEX, and PAH should there be reason to believe that other parameters of potential concern are present in the soil. Treatment levels for these additional parameters shall be determined by the Department on a case-by-case basis, taking end use into consideration and potential risk to human health and the environment.

4. Class III. Class III soil is soil contaminated with any contaminant other than those listed under Classes I and II above.

a. Facilities applying for a Class III permit under this regulation shall submit for Department review, technical data that demonstrates that the proposed soil treatment technique can treat soil to concentration levels equal to or less than those levels listed in the current EPA approved Risk Based Concentrations (RBC) tables as determined by the Department. If the applicant fails to submit data, or the Department determines that the data submitted is insufficient, the facility shall obtain a Research, Development, and Demonstration (RD&D) permit as outlined in R.61–107.10. If the facility demonstrates to the Department under the RD&D permit that the soil treatment technique used is effective on each contaminant to be treated without the creation of harmful degradation products, the Department will issue the facility a Class III permit, pursuant to this regulation.

b. The permittee shall submit a list of contaminants to the Department for review and approval based on the chemical and physical nature of the Class III contaminated soil. Based on this information, the Department shall determine appropriate levels of treatment.

c. All Class III soil shall be analyzed for parameters approved by the Department.

d. The end use of Class III contaminated soil shall be approved by the Department prior to accepting the soil for treatment. Treatment levels for soil to be treated shall be determined by the Department on a case-by-case basis, and based on the intended end use. The Department will take potential risk to human health and the environment into consideration when determining appropriate treatment levels. These site specific determinations may be based on current EPA approved risk based concentrations (RBC) tables, toxicological review, scientifically defensible published data which are appropriate for use in developing permit limits and contaminant levels for which EPA has not developed national criteria or for which South Carolina has no standards. The Department will consider the site specific routes of potential exposure and the hydrogeologi-

cal conditions for the potential to leach contaminants to the water table, and will use health and/or technical literature.

e. Those treatment processes which can be proved to the Department to effectively treat the contaminants in the Class III contaminated soil may be exempted from the requirements to obtain a RD&D permit under R.61-107.10 and may be permitted under this regulation. In all cases, the Department shall retain the authority to set treatment levels based on end use considerations to ensure treatment is protective of human health, surface water standards, and ground water standards.

5. Facilities may be permitted to treat only Class I soil, only Class II soil, only Class III soil, or a combination of any of these soil types. Any facility treating a combination of contaminated soil types that includes Class III soil type may be required to receive a permit under the authority of this regulation, and also a RD&D permit. Upon the two years expiration of the RD&D permit, if the process is proved to be a viable method for treating soil, the facility's existing permit issued under the authority of this regulation may be amended to include the treatment process proved viable under the RD&D permit.

G. Monitoring and Reporting Requirements.

1. Should the Department have evidence to suspect potential environmental and/or health problems associated with the treatment facility, monitoring (including groundwater, surface water, and air quality) may be required by the Department, as appropriate, and based on a case-by-case evaluation to ensure protection of the environment.

2. An annual report, on a form provided by, or acceptable to, the Department, shall be submitted to the Department by October 15 for the previous fiscal year (July 1 through June 30,) which includes, at a minimum, the following information:

- a. The total quantity in tons of contaminated soil received at the facility for the previous fiscal year;
- b. The total quantity in tons of treated soil transported off-site and the destination of this soil; and,
- c. The county in South Carolina in which the contaminated soil originated, or the State if the soil originated outside South Carolina.

3. Analytical data showing that all treated soil met appropriate standards, pursuant to Section F. of this regulation, prior to removal from the facility, shall be maintained on-site for a minimum of five (5) years from the date the results are received from the laboratory. This data shall be generated by a laboratory certified by SCDES for the required parameters and in accordance with SW-846, Chapter 9. This data shall be made available to the Department upon request.

4. Documentation related to the acceptance, rejection, storage, operational data, and proper disposal of all contaminated soil received by the facility shall be maintained for a minimum of five (5) years, and made available to the Department upon request.

5. Upon implementation of the contingency plan, the owner or operator shall immediately notify the Department (using the 24-hour number 803-253-6488) and note, in the operating record and annual report, the following information:

- a. The name, address and telephone number of the operator and the facility;
- b. The date, time and type of incident (spill, fire, explosion, etc.); and,
- c. The extent of physical damages to the operational part of the facility.

6. Upon request by the Department in response to a notification made in Item 5 of this Section, a written report shall be submitted to the Department that includes the following information:

- a. An assessment of actual or potential hazards to human health or the environment, where this is applicable;
- b. The procedures or equipment available to prevent a recurrence of the reported event; and,
- c. Any long-term corrective action proposals. Upon Department review and approval, the corrective action proposal shall be implemented.

7. Records of all monitoring and reporting information, pursuant to these regulations, shall be maintained at the facility for a minimum of five (5) years from the sample or measurement date, unless otherwise specified by the Department. These reports shall be made available to Department personnel upon request.

H. Closure and Post-Closure Procedures. The following closure and post-closure procedures addressed in this section apply to all soil treatment facilities:

1. At least sixty (60) days prior to closure, the owner or operator shall submit to the Department written notice of intent to close and a proposed closure date;

2. Upon closing, the owner or operator shall immediately remove all treated soil, properly dispose of any waste associated with the treatment process, transport all contaminated soil to either another permitted soil treatment facility or permitted disposal facility, and post signs at the facility which state that the facility is no longer in operation;

3. Within thirty (30) days of final removal of all contaminated and treated soil, the owner or operator shall complete closure as outlined in the facility's approved closure plan and notify the Department;

4. After receiving notification that the facility closure is complete, the Department will conduct an inspection of the facility. If all procedures have been correctly completed, the Department will approve the closure in writing, at which time the Department permit shall be terminated; and,

5. If the Department's inspection reveals that closure, as outlined in the facility's approved closure plan, is incomplete, the owner or operator shall submit to the Department a post-closure care plan for Department approval to address the deficiencies noted by the Department. Post closure environmental monitoring and/or corrective action may be required. This post-closure care plan, if required, shall be submitted within thirty (30) days of the inspection, and shall include a time table.

I. Violations and Penalties. A violation of this regulation or any permit, order, or standard issued pursuant to or related to this regulation subjects the person to the issuance of a Department order or to civil enforcement action in accordance with S.C. Code Section 44-96-450, as amended, which may include civil penalties in accordance with the Solid Waste Policy and Management Act (SCPMA) and any amendments thereto. Willful violation of this regulation or any permit, order, or standard issued pursuant to or related to this regulation subjects the person to the issuance of a Department order which may also include civil penalties in accordance with the SCPMA, as amended, and may also result in a criminal enforcement action in accordance with S.C. Code Section 44-96-450, as amended. Any person to whom an administrative order is issued may appeal it as a contested case pursuant to R.61-72, Procedures for Contested Cases, and the S.C. Administrative Procedures Act, S.C. Code Section 1-23-310 et seq., as amended.

J. Severability. Should any section, paragraph, sentence, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

HISTORY: Added by State Register Volume 25, Issue No. 5, Part 1, eff May 25, 2001. Amended by SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

61-107.19. SOLID WASTE. MANAGEMENT: SOLID WASTE LANDFILLS AND STRUCTURAL FILL.

(Statutory Authority: 1976 Code §§ 44-96-10 et seq., 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024)

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Part I. General Requirements.

- A. Applicability.

1. This regulation establishes minimum standards for the site selection, design, operation, and closure of all solid waste landfills and structural fill areas. Disposal of waste under the purview of this regulation is based on the waste's chemical/physical properties and is not dependent upon the source of generation with the exception of municipal solid waste that shall be disposed in Class Three landfills. This regulation is divided into the following parts:

a. Part I outlines the general criteria that applies to one or more Parts of the regulation, e.g., the applicability for the regulation, waste characterization requirements for determining the type of landfill needed, definitions for the purposes of this regulation;

b. Part II outlines the Permit-by-rule requirements for structural fill activity using a limited waste stream;

c. Part III outlines the General Permitting requirements for Class One Landfills - using land-clearing debris, and yard trash to fill low areas, including permitted mining sites, for an aesthetic benefit or property enhancement;

d. Part IV outlines the requirements for Class Two Landfills - all landfills for the disposal of waste as outlined in Appendix I of this regulation, and similar waste, and wastes that test, pursuant to Section C of this Part, less than ten (10) times the maximum contaminant level (MCL) as published in R.61-58, State Primary Drinking Water Regulation current at the time of the permit application. When a waste not listed in Appendix I is approved by the Department for disposal, the landfill's permit will be modified to include the acceptability of the approved waste; and,

e. Part V outlines the requirements for Class Three Landfills that accept municipal solid waste, industrial solid waste, sewage sludge, nonhazardous municipal solid waste incinerator ash and other nonhazardous wastes.

2. This regulation replaces and simultaneously repeals Regulations: 61-107.11 Solid Waste Management: Construction, Demolition, and Land-clearing Debris Landfills; 61-107.13 Solid Waste Management: Municipal Solid Waste Incinerator Ash Landfills; 61-107.16 Solid Waste Management: Industrial Solid Waste Landfills; and 61-107.258 Solid Waste Management: Municipal Solid Waste Landfills. The Department will automatically convert as an administrative modification all existing landfill permits to the appropriate Part as outlined in this regulation.

3. A separate permit shall be required for each landfill even though there may be one or more different types of landfills located in different areas on the same site.

4. This regulation applies to all new and existing solid waste landfills and to all structural fill activities. All new solid waste landfills shall be in compliance with all requirements of this regulation prior to receipt of waste.

5. This regulation becomes effective upon publication as final in the State Register.

6. Existing permitted solid waste landfills shall comply with the following:

a. Existing permitted landfills operating on the effective date of this regulation are not subject to the location criteria outlined herein, but shall be subject to all other provisions of this regulation;

b. Within 180 days of the effective date of this regulation, existing permitted landfills that are not in compliance with required standards, shall submit to the Department a plan to bring the landfill into compliance with requirements of this regulation; and,

c. All landfills operating on the effective date of this regulation shall be in compliance with the requirements of this regulation within 18 months of the effective date of this regulation, unless additional time is allowed pursuant to requirements of this regulation.

7. Landfills for the disposal only of trees, stumps, wood chips, and yard trash when generation and disposal of such waste occurs on properties under the same ownership or control are exempt from the requirements of this regulation. Also, land-clearing debris generated from agricultural or silvicultural operations generated and disposed on site are not subject to the requirements of this regulation.

8. Open dumping is prohibited.

9. Use of Design Document, Plans, and Specifications.

a. The owner/operator of a solid waste landfill shall maintain copies of all Department approved plans and specifications for the landfill at a location readily accessible by landfill personnel and representatives of the Department during regular business hours; and,

b. All landfill operations shall be in accordance with this regulation and with all Department approved plans and specifications for the facility. Failure to operate in accordance with this regulation and/or the approved plans and permit may result in enforcement action by the Department.

10. All activities conducted under the purview of this regulation shall adhere to all Federal and State rules and regulations, and all local zoning, land use, and other applicable ordinances and laws;

B. Definitions for the Purposes of this Regulation.

1. "Active life" means the period of operation beginning with the initial receipt of solid waste and ending at completion of closure activities in accordance with this regulation.

2. "Active portion" means that part of a facility that has received or is receiving wastes and that has not been closed in accordance with this regulation.

3. "Administratively complete" means a determination by the Department that all elements of an application, as specified herein, have been received to include all required signatures and tender of the application fee, where required.

4. "Airport" means public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

5. "Applicant" means an individual, corporation, partnership, business association, or government entity that applies for the issuance, transfer, or modification of a permit under this regulation.

6. "Aquifer" means a geological formation, group of formations, or portion of a formation, capable of yielding significant quantities of groundwater to wells or springs.

7. "Areas susceptible to mass movement" means those areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) where the movement of earth material at, beneath, or adjacent to the landfill, because of natural or man-induced events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include, but are not limited to, landslides, avalanches, debris slides and flows, soil fluction, block sliding, and rock fall.

8. "Ash" means the solid residue from the incineration of solid wastes.

9. "Beneficial fill" means filling to surrounding grade, low areas or depressions in the surface of the earth to include permitted mining sites for an aesthetic benefit.

10. "Bird hazard" means an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants.

11. "Bulk PCB Waste" means waste derived from manufactured products containing PCBs in a non-liquid state, at any concentration where the concentration at the time of designation for disposal was ≥ 50 ppm PCBs. PCB bulk product waste does not include PCBs or PCB Items regulated for disposal under 40CFR761, the Toxic Substances Control Act (TSCA), Sections 761.60(a) through (c), Sec. 761.61, Sec. 761.63, or Sec. 761.64. PCB bulk product waste includes, but is not limited to:

(a) Non-liquid bulk wastes or debris from the demolition of buildings and other man-made structures manufactured, coated, or serviced with PCBs. PCB bulk product waste does not include debris from the demolition of buildings or other man-made structures that is contaminated by spills from regulated PCBs which have not been disposed of, decontaminated, or otherwise cleaned up in accordance with TSCA requirements, Sec. 761.61.

(b) PCB-containing wastes from the shredding of automobiles, household appliances, or industrial appliances.

(c) Plastics (such as plastic insulation from wire or cable; radio, television and computer casings; vehicle parts; or furniture laminates); preformed or molded rubber parts and components; applied dried paints, varnishes, waxes or other similar coatings or sealants; caulking; adhesives; paper; Galbestos; sound deadening or other types of insulation; and felt or fabric products such as gaskets.

(d) Fluorescent light ballasts containing PCBs in the potting material.

12. "Closure" means the discontinuance of operation by ceasing to accept, treat, store, or dispose of solid waste in a manner which minimizes the need for further maintenance and protects human health and the environment.

13. "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial wastes.

14. "Construction" means any physical modification to the site at which a potential or proposed solid waste management facility is to be located including, but not limited to, site preparation.

15. "Contingency plan" means a document acceptable to the Department setting out an organized, planned, and coordinated course of action to be followed at or by the facility in case of a fire, explosion, or other incident that could threaten human health and safety or the environment.

16. "Cover" means soil or other suitable material, or both, acceptable to the Department that is used to cover compacted solid waste in a land disposal site.

17. "Department" means the South Carolina Department of Environmental Services.

18. "Disclosure statement" means a sworn statement or affirmation, the form and content of which shall be determined by the department and as required by SC Code Section 44-96-300.

19. "Displacement" means the relative movement of any two (2) sides of a fault measured in any direction.

20. "Disposal" means the discharge, deposition, injection, dumping, spilling, or placing of any solid waste into or on any land or water, so that the substance or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

21. "Existing landfill" means any landfill that is permitted to receive solid waste as of the effective date of this regulation.

22. "Expand" or "Expansion" means, for the purposes of this regulation, any increase in the permitted capacity of a solid waste disposal facility, or any increase in the total volume at a solid waste disposal facility.

23. "Facility" means all contiguous land, structures, other appurtenances and improvements on the land used for treating, storing, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal operational units, including, but not limited to, one or more landfills, surface impoundments, or combination thereof.

24. "Fault" means a fracture or a zone of fractures in any material along which strata on one side have been displaced with respect to that on the other side.

25. "Financial assurance mechanism" means a mechanism designed to demonstrate that sufficient funds will be available to meet specific environmental protection needs of solid waste management facilities. Available financial responsibility mechanisms include, but are not limited to insurance, trust funds, surety bonds, letters of credit, certificates of deposit, and financial tests as determined by the Department by regulation.

26. "Flood plain" means the lowland and relatively flat areas adjoining inland and coastal areas of the mainland and off-shore islands including, at a minimum, areas subject to a one percent or greater chance of flooding in any given year.

27. "100-year flood" means a flood that has a 1-percent or greater chance of recurring in any given year or a flood of a magnitude equaled or exceeded once in 100 years on the average over a significantly long period.

28. "Footprint" means the outer most edges of the waste disposal area.

29. "Gas condensate" means the liquid generated as a result of gas recovery process(es) at the landfill.

30. "Generator" means any person, by site, whose action or process produces solid waste, or whose action first causes a solid waste to become subject to regulation.

31. "Groundwater" means water beneath the land surface in the saturated zone.

32. "Hazardous waste" has the meaning provided in Section 44-56-20 of the South Carolina Hazardous Waste Management Act.

33. “High water table” means the highest water elevations measured at the uppermost aquifer.
34. “Holocene” means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene Epoch to the present.
35. “Household waste” means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreational areas).
36. “Industrial waste” means solid waste that results from industrial processes including, but not limited to, factories and treatment plants.
37. “Karst terranes” means areas where karst topography, with its characteristic surface and subterranean features, is developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terranes include, but are not limited to, sinkholes, sinking streams, caves, large springs, and blind valleys.
38. “Landfill” means a disposal facility or part of a facility where solid waste is placed in or on land, and which is not a land treatment facility, a surface impoundment, or an injection well.
39. “Land-clearing debris” means solid waste which is generated solely from land-clearing activities, but does not include solid waste from agricultural or silvicultural operations.
40. “Lateral expansion” means a horizontal expansion of the footprint of an existing landfill.
41. “Leachate” means the liquid that has percolated through or drained from solid waste or other man-emplaced materials and that contains soluble, partially soluble, or miscible components removed from such waste.
42. “Lead-based paint” means paint containing greater than 600 parts per million (ppm) total lead by weight, calculated as lead metal in the total nonvolatile content, i.e., >0.06%; or, when measured in situ with an X-ray Fluorescence Spectrum Analyzer (XRF), paint containing >0.7 mg/cm².
43. “Liquid waste” means any waste material that is determined to contain “free liquids” as defined by Method 9095B (Paint Filter Liquids Test), and as described in “Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods” (EPA Pub. No. SW-846, as amended by EPA final updates).
44. “Lithified earth material” means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include man-made materials, such as fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth’s surface.
45. “Local government” means a county, any municipality located wholly or partly within the county, and any other political subdivision located wholly or partly within the county when such political subdivision provides solid waste management services.
46. “Lower explosive limit” means the lowest percent by volume of a mixture of explosive gases in air that will propagate a flame at 25° C and atmospheric pressure.
47. “Maximum horizontal acceleration in lithified earth material” means the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90% or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment.
48. “Modification” means changes to a solid waste landfill as follows:
- “Minor modification” means a change that keeps the permit current with routine changes to the facility or its operations, or an administrative change; and,
 - “Major modification” means a change that substantially alters the facility or its operations, e.g., tonnage increase above 25%, any volumetric capacity increase, alternate designs that vary from the design prescribed in this regulation.
49. “Municipal solid waste” includes, but is not limited to, wastes that are durable goods, nondurable goods, containers and packaging, food scraps, and miscellaneous inorganic wastes from residential, commercial, institutional, and industrial sources including, but not limited to, appliances,

automobile tires, newspapers, clothing, disposable tableware, office and classroom paper, wood pallets, and cafeteria wastes.

50. "Municipal solid waste incinerator" means any solid waste incinerator, publicly or privately owned, that receives household waste. Such incinerator may receive other types of solid waste such as commercial or industrial solid waste.

51. "On-site landfill" means landfills that accept only solid waste generated in the course of normal operations on property under the same ownership or control as the waste management facility.

52. "Open burning" means any fire or smoke-producing process which is not conducted in any boiler plant, furnace, high temperature processing unit, incinerator or flare, or in any other such equipment primarily designed for the combustion of fuel or waste material.

53. "Open dumping" means any unpermitted or unregistered solid waste disposal or land filling activity.

54. "Pay-in period" means the time frame allotted for making annual payments into a trust fund.

55. "Perennial stream" means a stream or reach of a stream that flows continuously throughout the year and whose upper surface generally stands lower than the water table in the region adjoining the stream.

56. "Permit" means the process by which the department can ensure cognizance of, as well as control over, the management of solid wastes.

57. "Permittee" means the person to whom the Department issued either a permit, an approval to operate under a General Permit, or a Permit-by-rule, pursuant to this regulation.

58. "Person" means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.

59. "Poor foundation conditions" means those areas where features exist which indicate that a natural or man-induced event may result in inadequate foundation support for the structural components of a landfill.

60. "Practical Quantitation Limit (PQL)" means the lowest concentration of an analyte that can be measured within specified limits of precision and accuracy during routine laboratory operating conditions.

61. "Putrescible wastes" means solid waste that contains organic matter capable of being decomposed by microorganisms and of such a character and proportion as to be capable of creating foul smelling odors and attracting or providing food for animals.

62. "Qualified professional" means a qualified South Carolina registered professional geologist or qualified South Carolina registered professional engineer. Under Part IV Section E and Part V Subpart E the qualified professional shall have sufficient training and experience in groundwater hydrology and related fields, including groundwater monitoring, contaminant fate and transport, and corrective-action.

63. "Recharge area" for a particular aquifer is defined as areas where water enters the aquifer through downward migration. Principal examples include: outcrop areas of a particular aquifer where the potentiometric head within the unit decreases with depth; and, in the subsurface, where the potentiometric head relationship and leakage factors across any confining unit allow for downward flow into other aquifer systems.

64. "Region" means a group of counties in South Carolina that is planning to or has prepared, approved, and submitted a regional Solid Waste Management Plan to the Department pursuant to S.C. Code Section 44-96-80.

65. "Regulated hazardous waste" means a solid waste that is a hazardous waste, as defined in R.61-79.261.3, Hazardous Waste Management Regulations, that is not excluded from regulation as a hazardous waste under R.61-79.261.4(b), or was not generated by a conditionally exempt small quantity generator as defined in R.61-79.261.5.

66. "Regulatory threshold" means promulgated levels that can not be equaled or exceeded.

67. "Representative sample" means a sample that statistically represents the population.

68. "Responsible party" means:

- a. Any officer, corporation director, or senior management official of a corporation, partnership, or business association that is an applicant;
- b. A management employee of a corporation, partnership, or business association that is an applicant who has overall responsibility for operations and financial management of the facility under consideration;
- c. An individual, officer, corporation director, senior management official of a corporation, partnership, or business association under contract to the applicant to operate the facility under consideration; or,
- d. An individual, corporation, partnership, or business association that holds, directly or indirectly, at least five percent (5%) equity or debt interest in the applicant. If any holder of five percent or more of the equity or debt of the applicant is not a natural person, the term means any officer, corporation director, or senior management official of the equity or debt holder who is empowered to make discretionary decisions with respect to the operation and financial management of the facility under consideration.

69. "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

70. "Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

71. "Saturated zone" means that part of the earth's crust in which all voids are filled with water.

72. "Seismic impact zone" means an area with a 10% or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull (g), will exceed 0.10g in 250 years.

73. "Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

74. "Small business" means a commercial retail service, industry entity, or nonprofit corporation, including its affiliates, that:

- a. Is, if a commercial retail service or industry service, independently owned and operated; and,
- b. Employs fewer than one hundred (100) full-time employees or has gross annual sales or program service revenues of less than five million dollars.

75. "Sole source aquifer" is defined as specified in the Federal Safe Drinking Water Act.

76. "Solid waste" means any garbage, refuse, or sludge from a waste treatment facility, water supply plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities. This term does not include solid or dissolved material in domestic sewage, recovered materials, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended. Also excluded from this definition are application of fertilizer and animal manure during normal agricultural operations or refuse as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste, which will not have a significant adverse impact on the environment.

77. "Special Wastes" means nonresidential or commercial solid wastes, other than regulated hazardous wastes, that are either difficult or dangerous to handle and require unusual management at Class Three landfills, including, but not limited to, those wastes contained in S.C. Code Section 44-96-390.(A).

78. "Special Wastes Analysis and Implementation Plan" means the procedures used to identify and manage special wastes at Class Three landfills, pursuant to SC Code Section 44-96-390.

79. "State" means the State of South Carolina.

80. "Structural components" means liners, leachate collection systems, final covers, run-on/run-off systems, and any other component used in the construction and operation of the landfill that is necessary for protection of human health and the environment.

81. "Structural fill" means landfilling for future beneficial use utilizing land-clearing debris, hardened concrete, hardened/cured asphalt, bricks, blocks, and other materials specified by the department by regulation, compacted and landfilled in a manner acceptable to the department, consistent with applicable engineering and construction standards and carried out as a part of normal activities associated with construction, demolition, and land-clearing operations; however, the materials utilized must not have been contaminated by hazardous constituents, petroleum products, or painted with lead-based paint. Structural fill may not provide a sound structural base for building purposes.

82. "Structural integrity" means the ability of a landfill to withstand physical forces exerted upon designed components, appurtenances, and containment structures (e.g., liners, dikes) of the landfill.

83. "Surface water" means lakes, bays, sounds, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within territorial limits, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private. (This does not include drainage ditches, sedimentation ponds and other operational features on the site.)

84. "Unstable area" means a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and Karst terranes.

85. "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

86. "Vector" means a carrier that is capable of transmitting a pathogen from one organism to another including, but not limited to, flies and other insects, rodents, birds, and vermin.

87. "Vertical expansion" means an expansion of an existing solid waste landfill above previously permitted elevations for the purposes of gaining additional capacity.

88. "Washout" means the carrying away of solid waste by waters of the one-hundred year base flood.

89. "Wetlands" means those areas that are defined in 40 Code of Federal Regulations (CFR) Section 232.2(r) or State law.

90. "Yard trash" means solid waste consisting solely of vegetative matter resulting from landscaping maintenance.

C. Waste Characterization.

1. Waste Characterization Report.

a. Determination of the proper landfill class for disposal of a waste stream is based on the chemical and physical properties of the waste and not on the source of generation of the waste. To determine the class of landfill required for proper disposal of a waste stream, the permittee shall submit to the Department a waste characterization report. The waste characterization report shall consist of a comprehensive analytical evaluation of the chemical and physical nature of each waste stream. Hazardous wastes as defined in R.61-79, Hazardous Waste Management Regulations shall not be disposed of in the landfills under the purview of this regulation. The wastes acceptable for disposal in a Class One landfill, and waste items listed in Appendix I are exempt from the waste characterization process outlined in this regulation. Class Three landfills shall adhere to their approved Special Waste Analysis and Implementation Plan (SWAIP), pursuant to S.C. Code Section 44-96-390 which shall be deemed to be in compliance with this Section.

b. The toxicity characteristic leaching procedure (TCLP) (USEPA method 1311) shall be used to obtain all extracts for the purpose of characterizing a waste stream proposed for disposal in a solid waste landfill.

c. The analytical results of the TCLP shall be compared to the MCLs in South Carolina R.61-58 State Primary Drinking Water Regulation to determine the appropriate class landfill in

which the waste stream may be disposed. If no MCL exists for a parameter, then those drinking water risk-based concentrations recognized by EPA Region IV shall be used to determine the appropriate class landfill for the waste. For those parameters where no MCL or Region IV number exists, the Department, using input from the permittee, will develop an appropriate number for determining the landfill class for disposal of that waste stream.

d. Unless otherwise exempted in this regulation, all wastes shall be characterized in accordance with the following schedule:

- (1) A minimum of every three years using certified knowledge of the process by which the waste stream was generated;
- (2) At a minimum of every six years using analytical test data from the TCLP;
- (3) According to a Department approved alternate schedule based on the variability or non-variability noted in previous sampling events or other factors that affect the predictability of waste characteristics;
- (4) When the process or raw materials used in the process that generates the waste changes significantly enough to alter the chemical makeup or chemical ratios of the waste stream; and,
- (5) When a new waste stream is proposed for disposal.

e. Waste streams not listed in Appendix I, that demonstrate properties similar to the waste listed on Appendix I, may be exempted from testing as determined by the Department on a case-by-case basis. Requests for an exemption from testing, along with technical rationale for the exemption, shall be submitted to the Department in writing.

f. The Department will provide current forms and guidance documents needed for the successful completion of the waste characterization process. All analytical results from the characterization process shall be submitted to the Department on these forms or in a format approved by the Department.

2. Waste Testing and Waste Stream Determination.

a. The permittee shall submit to the Department a comprehensive determination of the chemical and physical nature of each waste stream to be landfilled in accordance with the following sampling and analytical requirements:

(1) To ensure that representative samples are obtained, the sampler shall develop a sampling plan and employ all reasonable measures, such as sampling different sources of solid waste at different times, or conducting random sampling of a representative pile of the waste generated from different sources at different times. All samples of waste shall be collected using procedures as described in EPA Publication SW-846.

(2) All analytical testing required by this regulation shall be performed by a laboratory certified by the Department for the appropriate methodologies, to both properly prepare and analyze for the required parameters. The current guidelines for applicable regulatory thresholds, practical quantitation limits, and required quality assurance data shall be obtained from the Department prior to the start of the characterization project. Analytical results shall be submitted to the Department within 60 days of the sample collection date.

(3) Mixing of individual wastes to be disposed of prior to testing is acceptable only if:

(a) The individual wastes are mixed prior to discharge in the normal production process of the generator or the individual wastes are generated by identical processes and identical raw materials; or,

(b) The mixing of individual non-hazardous wastes results in a waste in which leaching characteristics are no greater than the leaching characteristics of one or more of the individual wastes; and,

i. A demonstration is submitted to the Department for review and approval that details how a reduction in leaching occurs due to some factor other than dilution. The demonstration shall include, at a minimum:

aa. The concentration, determined in accordance with the requirements of this Section, for each parameter which undergoes a reduction in concentration. Concentra-

tions of parameters shall be determined for each individual waste in the mixture and for each parameter as a result of the mixture;

bb. A listing and the ratio, by weight and volume, of the individual wastes which comprise the mixture;

cc. Calculations using the concentration and weight data required in paragraphs aa. and bb. above, which demonstrate quantitatively that the reduction in leaching characteristics is not solely due to dilution; and,

dd. An identification and explanation of the chemical reactions, including chemical equations, which cause the reduction.

ii. The individual non-hazardous wastes are mixed in the same ratios and in the same manner in which they will be mixed prior to disposal.

(4) For the purpose of obtaining an extract, which will be analyzed for any volatile organic compounds, a zero head space extraction apparatus, as specified in the TCLP, shall be used.

(5) Practical Quantitation Limits (PQLs) for the analytical methods shall be one order of magnitude below the required regulatory threshold for the particular landfill class desired for disposal. Slight deviations in minimum PQL may be granted, on a case-by-case basis, with proper application and technical justification to the Department.

b. For the initial characterization of solid waste to be disposed of in a solid waste landfill, a minimum of two (2) representative samples of the waste shall be collected and tested in accordance with the TCLP. TCLP testing of additional samples of the solid waste may be required by the Department, based on a high degree of variability in the concentration of a parameter at or near the maximum allowable concentration for a particular landfill class. The Department may allow, with prior approval, the testing for selected constituents based on the generators knowledge of the process.

c. The permittee shall notify and obtain approval from the Department prior to making any physical or chemical changes to the waste stream being disposed of in a solid waste landfill.

(1) Significant changes in the chemical or physical nature of the waste stream may require disposal of the waste stream in a different class of landfill.

(2) Significant changes to the chemical or physical nature of the waste stream may require modification of the environmental monitoring program.

d. Any person seeking to utilize a testing or analytical method other than the TCLP method described in Section C.1.b. above may request authorization to do so. To be successful, the applicant shall demonstrate to the satisfaction of the Department that the proposed method is equal to or superior to the TCLP in terms of its sensitivity, accuracy, and precision (i.e., reproducibility). The request shall include, at a minimum:

(1) A full description of the proposed method, including all procedural steps and equipment used in the method;

(2) Description of the types of wastes or waste matrices for which the proposed method may be used;

(3) Comparative results obtained from using the proposed method with those obtained from using the TCLP;

(4) An assessment of any factors, which may interfere with, or limit the use of, the proposed method;

(5) A description of the quality control procedures necessary to ensure the sensitivity, accuracy, and precision of the proposed method; and,

(6) Any other information on the proposed method, which the Department may reasonably request to evaluate the proposed method.

e. The outcome of an alternate testing procedure as outlined in Section C.2.d. above may result in revision of the landfill class limits as defined in Part I, Section A.1. of this regulation to ensure equivalent protection of human health and the environment.

f. Solid waste streams that contain chemicals or chemical properties potentially harmful to human health and the environment, for which TCLP or other approved testing procedures as

outlined in Section C.2.d. above is not sufficient, shall be classified on a case-by-case basis by the Department. The permit applicant may be required to perform alternate testing procedures as necessary to determine the potential adverse effects to human health and the environment.

g. A sampling and analysis plan for performing the activities outlined in Section C.2.a.-f. above shall be submitted to the Department for review and approval prior to sampling for waste characterization purposes.

h. If the waste characterization test results indicate that a landfill reclassification is necessary based on exceedance of the landfill classification level outlined in Part IV A.1., the Department may require additional sampling and testing to confirm or reject such indication. If exceedance of the landfill classification level outlined in Part IV A.1 is confirmed and the facility intends to continue to accept the waste stream in question, the Department will require the permittee to submit a permit application for appropriate modifications to the landfill. The required modifications shall insure that the facility meets the requirements of the new landfill classification.

3. Waste Characterization Report for Class Two Landfills.

a. Class Two landfills shall, prior to permit issuance, submit a waste characterization report that contains at a minimum, the following:

(1) A listing of each solid waste proposed for disposal in the facility;

(2) The solid waste sampling plan used to ensure that accurate and representative samples are collected in accordance with Section C.2.a. above;

(3) A detailed description of any mixing to be proposed as described in Section C.2.a. above, and any available information that is required by that section;

(4) All laboratory results and quality assurance/quality control documentation that fully characterizes each waste; and,

(5) The name, location, and contact person of each generator of solid waste to be disposed of at the facility.

b. Class Two landfills that accept ONLY those wastes specifically listed in Appendix I are exempt from the waste characterization report requirements.

c. Class Three landfills shall adhere to their approved Special Waste Analysis and Implementation Plan (SWAIP), pursuant to S.C. Code Section 44-96-390.

4. Compliance with the Department approved SWAIP will satisfy requirements of this section for Class Three landfills.

D. Permit Application Process.

1. Determination of Need and Consistency.

a. Prior to submittal of a permit application to the Department for a new or expanded Class Two or Class Three Landfill, the applicant shall provide documentation of property ownership (e.g., tax map or deed) or proof of property control (e.g., contract) and request the following determinations by the Department:

(1) That there is a need for the proposed landfill or landfill expansion pursuant to Regulation 61-107.17 and that the Department has determined the maximum yearly disposal rate pursuant to Regulation 61-107.17;

(2) That the proposed landfill or landfill expansion is consistent with the State and county/region solid waste management plans pursuant to S.C. Section 44-96-290(F);

(3) That the proposed landfill or landfill expansion is consistent with local zoning, land use, and any other applicable ordinances pursuant to S.C. Code Section 44-96-290(F);

(4) That the proposed landfill or landfill expansion meets the buffer requirements set forth in Part IV, B.1.a. of this Regulation for Class Two landfills and Part V, Subpart B.258.18.a. of this Regulation for class Three landfills;

b. Where, prior to the effective date of this regulation, the Department has made determinations required under Part I.D.1.a. of this regulation, such determinations shall remain applicable and become the agency's final determination under Part I.D.1, subject to the appeal provision in Part I.D.1.c and the subsequent public notice and application process.

c. A Department decision involving a determination listed herein, may be appealed by an affected person with standing pursuant to applicable law, including S.C. Code Title 48, Chapter 6; and Title 1, Chapter 23.

2. Public Notification and Participation.

a. Notice of Intent to File a Permit Application.

(1) Within 15 days of notification from the Department that all requests for need and consistency determinations as outlined in Section D.1.a. above have been submitted to the Department for a new or expanding Class Two or Class Three Landfill, the applicant shall publish Notice of Intent to File a Permit Application in a newspaper of general circulation in the area of the proposed landfill project. The notice shall be published in the legal section of the paper for three consecutive days. This section does not apply to major permit modifications that are not expansions of an existing landfill.

(2) The notice shall contain at least the following:

- (a) Name and address of the applicant;
- (b) The location of the proposed landfill or landfill expansion to include the county, roads and crossroads;
- (c) The town or community nearest to the proposed landfill or landfill expansion;
- (d) The proposed size of the landfill or landfill expansion, i.e., footprint acreage;
- (e) An explanation of the type(s) of waste that will be accepted;
- (f) A statement that a request has been submitted to the Department for a determination that there is a need for the proposed landfill or landfill expansion pursuant to Regulation 61-107.17 and for a determination of the maximum yearly disposal rate pursuant to Regulation 61-107.17;
- (g) A statement that a request has been submitted to the Department for a determination that the proposed landfill or landfill expansion is consistent with the State and county/region solid waste management plans pursuant to S.C. Section 44-96-290(F);
- (h) A statement that a request has been submitted to the Department for a determination that the proposed landfill or landfill expansion is consistent with local zoning, land use, and any other applicable ordinances pursuant to S.C. Code Section 44-96-290(F);
- (i) A statement that a request has been submitted to the Department for a determination that the proposed landfill or landfill expansion meets the buffer requirements set forth in Part IV, B.1.a. of this Regulation for Class Two landfills and Part V, Subpart B.258.18.a. of this Regulation for Class Three landfills;
- (j) Department locations (Central Office and appropriate Regional Office) where a copy of these documents can be viewed during normal working hours; and,
- (k) The Department's address and contact name for submittal of inquiries and placement of name on the Department's mailing list for future decisions.

(3) No permit application may be accepted by the Department for filing unless accompanied by documentation from the newspaper that publication has been made.

(4) No later than the first date of publication in the newspaper, the applicant shall mail a copy of the Notice of Intent to File a Permit Application by certified mail, return receipt requested, to all adjoining landowners of the proposed landfill or landfill expansion.

b. Notice of Draft Determinations of Need and Consistency Under Section D.1.a. Above.

(1) For Class Two and Class Three landfills, the Department will publish a notice when the draft determinations are ready for review for all new or expanded landfills. This notice will be published in a newspaper of general circulation in the area of the proposed landfill and sent to affected persons who have asked to be notified. The notice will list locations where a copy of the draft determinations can be reviewed. The public will have a 30-day period to review the draft determinations and submit comments to the Department, pursuant to the Administrative Procedures Act, SC Code Section 1-23-10 et seq.

(2) Public Hearings for Draft Determinations.

(a) The Department will conduct a public hearing upon receipt of requests in writing by ten (10) persons or by a governmental subdivision or agency or by an association having not less than ten members.

(b) A request for a public hearing must be mailed (postmarked) to the Department during the 30 day comment period and shall be based on technical reasons relating to siting, design, or operation of the landfill. The Department will send a notice acknowledging receipt of a request for a public hearing to the applicant and to the person(s) requesting a hearing within 15 days following receipt of the request. The Department will publish a notice of the time, date, and location of the hearing.

(3) Notice of Department Determinations. After close of the public comment period on the draft determination and the public hearing, if held, the Department will issue a Department Decision. Notice of the Department Decision will be sent by certified mail, return receipt requested, to the applicant. Notice of the Department's decision will be sent by regular mail, unless certified mail is requested, to affected persons who have asked to be notified, to all persons who commented in writing to the Department, and to all persons who attended the public hearing, if held. However, if the Department determines that members of the same group or organization have submitted comments or a petition, the Department may only notify all group leaders and petition organizers by certified mail, return receipt requested. The Department will ask these leaders and organizers to notify members of their groups or any concerned citizens who signed the petitions. The Department will also publish notice of the Department Decision in a newspaper of general circulation in the area of the proposed activity. The Department's notice will include instructions on how to request a final review conference and the time frame for filing such a request.

c. Notice of Filing Permit Application.

(1) Notice of all applications submitted to the Department for the initial construction and major modifications of Class Two and Class Three landfills shall be published by the applicant once in a newspaper of general circulation in the area of the proposed landfill project. Notice for Class Two landfill application shall be published as provided in Part IV, Section H.3. Notice for new Class Three landfills that accept municipal solid waste shall be published as provided in S. C. Code Section 44-96-470 and Part V, Subpart H.3.a. of this regulation within 15 days of filing the permit application. Notice for all other new Class Three landfills shall be published as provided in Part V, Subpart H.3.b.

(2) All notices shall contain the following:

- (a) Name and address of the applicant;
- (b) The location of the proposed activity to include the county, roads and crossroads. (Class Three landfills shall provide a location map of the proposed site);
- (c) The nature of the proposed activity;
- (d) A description of the proposed site or a description of the proposed major modification;
- (e) An explanation of the type(s) of waste that will be accepted;
- (f) Department locations (Central Office and appropriate Regional Office) where a copy of the permit application or draft permit, as appropriate, can be viewed during normal working hours;
- (g) The Department's address and contact name for submittal of comments and inquires;
- (h) The approximate tonnage/year expected for disposal at the landfill; and,
- (i) The proposed life of the landfill.

(3) The Department will send a notice of receipt of the permit application by regular mail to all adjoining landowners of the proposed landfill.

d. Public notification requirements for Class One landfills are defined in Part III, Section B.4.

e. Notice of Draft Permit. For Class Two and Class Three landfills, the Department will publish a notice when the draft permit is ready for review for all new landfills and for major modifications as determined by the Department. This notice will be published in a newspaper of general circulation in the area of the proposed landfill and will be sent to affected persons who

have asked to be notified. The notice will list locations where a copy of the draft permit can be reviewed. The public will have a 30-day period to review the draft permit and submit comments to the Department, pursuant to the Administrative Procedures Act, SC Code Section 1-23-10 et seq.

f. Public Hearings for Draft Permits.

(1) The Department will conduct a public hearing upon receipt of requests in writing by ten (10) persons or by a governmental subdivision or agency or by an association having not less than ten members.

(2) A request for a public hearing must be mailed (postmarked) to the Department during the 30 day comment period and shall be based on technical reasons relating to siting, design, or operation of the landfill. The Department will send a notice acknowledging receipt of a request for a public hearing to the applicant and to the person(s) requesting a hearing within 15 days following receipt of the request. The Department will publish a notice of the time, date, and location of the hearing.

g. Notice of Department Decision on the Permit. After close of the public comment period on the draft permit and the public hearing, if held, the Department will issue a Department Decision. Notice of the Department Decision will be sent by certified mail, return receipt requested, to the applicant. Notice of the Department's decision will be sent by regular mail, unless certified mail is requested, to affected persons who have asked to be notified, to all persons who commented in writing to the Department, and to all persons who attended the public hearing, if held. However, if the Department determines that members of the same group or organization have submitted comments or a petition, the Department may only notify all group leaders and petition organizers by certified mail, return receipt requested. The Department will ask these leaders and organizers to notify members of their groups or any concerned citizens who signed the petitions. The Department will also publish notice of the Department Decision in a newspaper of general circulation in the area of the proposed activity. The Department's notice will include instructions on how to request a final review conference and the time frame for filing such a request.

E. Financial Assurance Criteria. The requirements of this Section apply to all: Class One landfills, except landfills owned and operated by local government or a region comprised of local governments, State or Federal government; Class Two landfills, except landfills owned and operated by local government or a region comprised of local governments, State or Federal government; and, Class Three landfills, except landfills owned and operated by State or Federal government entities whose debts and liabilities are the debts and liabilities of the State or the United States.

1. Financial Assurance for Closure.

a. The permittee shall have a detailed written estimate, in current dollars, of the cost of hiring a third party to close the largest area of the landfill ever requiring a final cover at any time during the active life in accordance with the closure plan. The permittee shall submit a copy of the estimate to the Department for review and approval.

(1) The cost estimate shall equal the cost of closing the largest area of the landfill ever requiring a final cover at any time during the active life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan.

(2) During the active life of the landfill, the permittee shall annually adjust the closure cost estimate for inflation.

(3) The permittee shall increase the closure cost estimate and the amount of financial assurance provided if changes to the closure plan or landfill conditions increase the maximum cost of closure at any time during the remaining active life.

(4) The permittee may reduce the closure cost estimate and the amount of financial assurance provided for proper closure if the cost estimate exceeds the maximum cost of closure at any time during the remaining life of the landfill. The permittee shall submit justification for the reduction of the closure cost estimate and the amount of financial assurance to the Department for review and approval.

b. The permittee of each landfill shall establish financial assurance for closure of the landfill as required by this regulation using an allowable mechanism. The permittee shall provide continu-

ous coverage for closure until released from financial assurance requirements, pursuant to this regulation.

2. Financial Assurance for Post-closure Care.

a. The permittee shall have a detailed written estimate, in current dollars, of the cost of hiring a third party to conduct post-closure care for the landfill in compliance with the applicable post-closure plan. The post-closure cost estimate used to demonstrate financial assurance shall account for the total costs of conducting post-closure care, including annual and periodic costs as described in the post-closure plan over the entire post-closure care period. The permittee shall submit a copy of the estimate to the Department for review and approval.

(1) The cost estimate for post-closure care shall be based on the most expensive costs of post-closure care during the post-closure care period.

(2) During the post-closure care period, the permittee shall annually adjust the post-closure cost estimate for inflation.

(3) The permittee shall increase the post-closure care cost estimate and the amount of financial assurance provided if changes in the post-closure plan or landfill conditions increase the maximum costs of post-closure care.

(4) The permittee may reduce the post-closure cost estimate and the amount of financial assurance provided if the cost estimate exceeds the maximum costs of post-closure care remaining over the post-closure care period. The permittee shall submit justification for the reduction of the post-closure cost estimate and the amount of financial assurance to the Department for review and approval.

b. The permittee of each landfill shall establish financial assurance for the costs of post-closure care as required by this regulation using an allowable mechanism. The permittee shall provide continuous coverage for post-closure care until released from financial assurance requirements for post-closure care.

3. Financial Assurance for Corrective Action.

a. A permittee of a landfill required to undertake a corrective action, pursuant to this regulation, shall have a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the corrective action plan. The corrective action cost estimate shall account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period. The permittee shall submit a copy of the estimate to the Department for review and approval.

(1) The permittee shall annually adjust the estimate for inflation until the corrective action program is completed, pursuant to this regulation.

(2) The permittee shall increase the corrective action cost estimate and the amount of financial assurance provided if changes in the corrective action program or landfill conditions increase the maximum costs of corrective action.

(3) The permittee may reduce the amount of the corrective action cost estimate and the amount of financial assurance provided in Section E.3.b. below, if the cost estimate exceeds the maximum remaining costs of corrective action. The permittee shall submit justification for the reduction of the corrective action cost estimate and the amount of financial assurance to the Department for review and approval.

b. The permittee of each landfill required to undertake a corrective action program, pursuant to this regulation, shall establish financial assurance for the most recent corrective action program using an allowable mechanism. The permittee shall provide continuous coverage for corrective action until released from financial assurance requirements for corrective action in accordance with this regulation.

4. Allowable Mechanisms. The mechanisms used to demonstrate financial assurance under this section shall ensure that the funds necessary to meet the costs of closure, post-closure care, and corrective action for known releases will be available whenever they are needed. Owners/operators shall choose from the options outlined herein. Payments made into the standby trust fund by the provider of the financial assurance pursuant to the Department instruction shall be transferred to the Trustee and are referred to as the Fund, together with all earnings and profits thereon, less any

payments or distributions made by the Trustee. An originally signed duplicate of the standby trust agreement shall be submitted to the Department with documentation of the selected mechanism(s).

a. Trust Fund.

(1) A permittee may satisfy the requirements of this section by establishing a trust fund that conforms to the requirements of this regulation.

(a) The trustee shall be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

(b) The text of the trust agreement shall be provided by the Department.

(c) The original trust agreement signed by the permittee and the trustee shall be submitted to the Department for review and approval. The trust agreement shall be accompanied by:

i. Schedule A. This information shall be in a format approved by the Department, updated within 60 days of each change in cost estimate, and include, at a minimum, the following about the facility:

(aa) Permit number, if available;

(bb) Name of the permittee;

(cc) Address of the facility;

(dd) Current closure cost estimate; and,

(ee) Current post-closure cost estimate, if appropriate.

ii. Schedule B. This information shall be in a format approved by the Department and include, at a minimum:

(aa) The amount of funds or property used to initially establish the trust fund; and,

(bb) The account number in which the funds are being held.

iii. A Certificate of Acknowledgment for Solid Waste Management Facility Trust Fund Agreement in a format approved by the Department to include, at a minimum, the:

(aa) Name of the trustee; and,

(bb) Name of the permittee.

(d) The trust fund shall be irrevocable and can not be changed or recalled without written agreements from the Department.

(2) Payments into the trust fund for closure and post-closure care shall be made annually by the permittee for five years or over the remaining life of the landfill, whichever is shorter. This period is referred to as the pay-in period. In the case of a trust fund for corrective action of known releases, the pay-in period shall consist of one-half ($\frac{1}{2}$) of the estimated length of the corrective action program.

(3) For a trust fund used to demonstrate financial assurance for closure and post-closure care, the first payment into the fund shall be at least equal to the current cost estimate for closure or post-closure care divided by the number of years in the pay-in period as defined in Section E.4.a.(2) above. The amount of subsequent payments shall be determined by the following formula:

$$\text{Next Payment} = \frac{\text{CE}-\text{CV}}{\text{Y}}$$

where CE is the current cost estimate for closure or post-closure care (updated for inflation or other changes), CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(4) For a trust fund used to demonstrate financial assurance for corrective action, the first payment into the trust fund shall be at least equal to one-half of the current cost estimate for corrective action, except as provided in Section E.4.h., divided by the number of years in the corrective action pay-in period as defined in Section E.4.a.(2) above. The amount of subsequent payments shall be determined by the following formula:

$$\text{Next Payment} = \frac{\text{RB}-\text{CV}}{\text{Y}}$$

where RB is the most recent estimate of the required trust fund balance for corrective action (i.e., the total costs that will be incurred during the second half of the corrective action period), CV is the current value of the trust fund, and Y is the number of years remaining on the pay-in period.

(5) The initial payment into the trust fund shall be made before the initial receipt of waste in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected.

(6) If the permittee establishes a trust fund after having used one or more alternate mechanisms, the initial payment into the trust fund shall be at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to the applicable specifications.

(7) The permittee, or other person authorized to conduct closure, post-closure care, or corrective action activities may request reimbursement from the trustee for these expenditures. Requests for reimbursement shall be granted by the trustee only if sufficient funds are remaining in the trust fund to cover the most recent Department-approved cost estimate for closure, post-closure care, or corrective action, and if justification and documentation of the cost is placed in the operating record. The permittee shall notify the Department that the documentation of the justification for reimbursement has been placed in the operating record and that reimbursement has been received.

(8) The trust fund account shall contain, at a minimum, the amount of funds needed to complete final closure of the facility at any given time during the life of the facility. An annual statement shall be provided to the Department at least 30 days prior to the anniversary date of establishment of the fund that confirms the value of the trust fund account to include all payments made into the account and all reimbursements paid from the account during the previous year.

(9) The trust fund may be terminated by the permittee only if the permittee substitutes alternate acceptable financial assurance or if he is no longer required to demonstrate financial responsibility in accordance with this regulation.

b. Surety Bond Guaranteeing Payment or Performance.

(1) A permittee may demonstrate financial assurance for closure or post-closure care by obtaining a payment or performance surety bond which conforms to the requirements of this regulation. A permittee may demonstrate financial assurance for corrective action by obtaining a performance bond which conforms to the requirements of this regulation. The bond shall be effective before the initial receipt of waste in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with this regulation. The permittee shall submit a copy of the bond to the Department. The surety company issuing the bond shall, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury. The text of the surety bond shall be provided by the Department.

(2) In addition to the surety bond, the permittee shall establish a standby trust fund, to receive payments using a trustee that has the authority to act as a trustee and that is regulated and examined by a Federal or State agency. The text of the standby trust shall be provided by the Department.

(3) The following documents shall be submitted to the Department:

- (a) The original surety bond signed by the Surety and the permittee; and,
- (b) The original standby trust agreement signed by the permittee and the trustee.

(4) The penal sum of the bond shall be in an amount at least equal to the current closure, post-closure care or corrective action cost estimate, whichever is applicable, except as provided in Section E.4.j.

(5) Under the terms of the bond, the surety shall become liable on the bond obligation when the permittee fails to perform as guaranteed by the bond.

(6) The permittee shall establish a standby trust fund. The standby trust fund shall meet the requirements for a trust fund as defined in Section E.4.a. except the requirements for initial payment and subsequent annual payments specified in Section E.4.a.(2) through (5) above.

(7) Payments made under the terms of the bond shall be deposited by the surety directly into the standby trust fund. Payments from the trust fund shall be approved by the trustee.

(8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permittee and to the Department 120 days in advance of cancellation. If the surety cancels the bond, the permittee shall obtain alternate financial assurance as specified in this section.

(9) The permittee may cancel the bond only if alternate financial assurance is substituted as specified in this section or if the permittee is no longer required to demonstrate financial responsibility in accordance with this regulation.

c. Letter of Credit.

(1) A permittee may satisfy the requirements of this section by obtaining an irrevocable standby letter of credit which conforms to the requirements of this regulation. The letter of credit shall be effective before the initial receipt of waste in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with this regulation. The issuing institution shall be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a Federal or State agency. The text of the letter of credit shall be provided by the Department.

(2) The original letter of credit shall be submitted to the Department.

(3) The letter of credit shall be irrevocable and issued for a period of at least one (1) year in an amount at least equal to the current cost estimate for closure, post-closure care or corrective action, whichever is applicable, except as provided in Section E.4.a.. The letter of credit shall provide that the expiration date will be automatically extended for a period of at least one year unless the issuing institution has canceled the letter of credit by sending notice of cancellation by certified mail to the permittee and to the Department 120 days in advance of cancellation. If the letter of credit is canceled by the issuing institution, the permittee shall obtain alternate financial assurance.

(4) The permittee may cancel the letter of credit only if alternate financial assurance is substituted as specified in this section or if the permittee is no longer required to demonstrate financial responsibility in accordance with this regulation.

d. Insurance.

(1) A permittee may demonstrate financial assurance for closure and post-closure care by obtaining insurance that conforms to the requirements of this regulation. The insurance shall be effective before the initial receipt of waste in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of this regulation. At a minimum, the insurer shall be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States. The permittee shall submit a copy of the insurance policy to the Department for review and approval. Once approved, the permittee shall submit a copy of the effective insurance policy including all endorsements and attachments to the Department.

(2) The closure or post-closure care insurance policy shall guarantee that funds will be available to close the landfill whenever final closure occurs or to provide post-closure care for the landfill whenever the post-closure care period begins, whichever is applicable. The policy shall also guarantee that once closure or post-closure care begins, the insurer shall be responsible for the paying out of funds to the permittee or other person authorized to conduct closure or post-closure care, up to an amount equal to the face amount of the policy.

(3) The insurance policy shall be issued for a face amount at least equal to the current cost estimate for closure or post-closure care, whichever is applicable, except as provided in the section that addresses the use of multiple financial mechanisms. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by

the insurer shall not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(4) A permittee, or any other person authorized to conduct closure or post-closure care, may receive reimbursements for closure or post-closure expenditures, whichever is applicable. Requests for reimbursement shall be granted by the insurer only if the remaining value of the policy is sufficient to cover the remaining costs of closure or post-closure care, and if justification and documentation of the cost is submitted to and approved by the Department.

(5) Each policy shall contain a provision allowing assignment of the policy to a successor permittee. Such assignment may be conditional upon consent of the insurer, provided that such consent is not unreasonably refused.

(6) The insurance policy shall provide that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy shall, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the permittee and to the Department 120 days in advance of cancellation. If the insurer cancels the policy, the permittee shall obtain alternate financial assurance.

(7) For insurance policies providing coverage for post-closure care, the insurer shall annually increase the face amount of the policy beginning on the date that liability to make payments is initiated. Such increase shall be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to 85% of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week Treasury securities.

(8) The permittee may cancel the insurance policy only if alternate acceptable financial assurance is substituted, or if the permittee is no longer required to demonstrate financial responsibility in accordance with this regulation.

e. Corporate Financial Test. A permittee that satisfies the requirements of this section may demonstrate financial assurance up to the amount specified below:

(1) Financial component.

(a) The permittee shall satisfy one of the following three conditions:

- i. A current rating for its senior unsubordinated debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's; or,
- ii. A ratio of less than 1.5 comparing total liabilities to net worth; or,
- iii. A ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus \$10 million, to total liabilities.

(b) The tangible net worth of the permittee shall be greater than:

- i. The sum of the current closure, post-closure care, corrective action cost estimates and any other environmental obligations, including guarantees, covered by a financial test plus \$10 million, except as provided in paragraph E.4.e.(1)(b)ii. below.
- ii. \$10 million in net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements provided all of the current closure, post-closure care, and corrective action costs and any other environmental obligations covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements, and subject to the approval of the Department.

(c) The Permittee shall have assets located in the United States amounting to at least the sum of current closure, post-closure care, corrective action cost estimates and any other environmental obligations covered by a financial test as described herein.

(2) Record keeping and reporting requirements.

(a) The permittee shall place the following items into the facility's operating record and submit a copy to the Department:

- i. A letter signed by the permittee's chief financial officer that:

(aa) Lists all the current cost estimates covered by a financial test, including, but not limited to, cost estimates required for municipal solid waste management facilities under 40 CFR Part 258, cost estimates required for UIC facilities under 40 CFR part 144, if applicable, cost estimates required for petroleum underground storage tank facilities under 40 CFR part 280, if applicable, cost estimates required for PCB storage facilities under 40 CFR part 761, if applicable, and cost estimates required for hazardous waste treatment, storage, and disposal facilities under 40 CFR parts 264 and 265, if applicable; and,

(bb) Provides evidence demonstrating that the firm meets the conditions outlined above for either the current rating for its senior unsubordinated debt, or compliance with the ratio comparing total liabilities to net worth, or the ratio comparing net income to total liabilities as outlined in Section E.4.e.(1)(a) above, and the tangible net worth requirements in Section E.4.e.(1)(b) above and assets as outlined in Section E.4.e.(1)(c) above.

ii. A copy of the independent certified public accountant's unqualified opinion of the permittee's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the owner's or operator's financial statements shall receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion will be cause for disallowance, with the potential exception for qualified opinions provided in the next sentence. The Department may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Department deems that the matters which form the basis for the qualification are insufficient to warrant disallowance of the test. If the Department does not allow use of the test, the permittee shall provide alternate financial assurance that meets the requirements of this section.

iii. If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the permittee satisfies either the ratio comparing total liabilities to net worth in Section E.4.e.(1)(a)ii. above, or the ratio comparing net income to total liabilities in Section E.4.e.(1)(a)iii. above that is different from data in the audited financial statements in the independent certified public accountant's financial statements for the latest complete fiscal year, referred to in Section E.4.e.(2)(a)ii. above, or any other audited financial statement or data filed with the SEC, then a special report from the permittee's independent certified public accountant to the permittee is required. The special report shall be based upon an agreed upon procedures engagement in accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.

iv. If the chief financial officer's letter provides a demonstration that the firm has assured for environmental obligations as provided in paragraph E.4.e.(1)(b)ii. above, then the letter shall include a report from the independent certified public accountant that verifies that all of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements, how these obligations have been measured and reported, and that the tangible net worth of the firm is at least \$10 million plus the amount of any guarantees provided.

(b) A permittee shall place all records and reports required by this section in the operating record and notify the Department that these items have been placed in the operating record before the initial receipt of waste for closure and post-closure care, and within 120 days after a corrective action remedy has been selected in accordance with this regulation.

(c) After all required records and reports have been placed in the operating record, the permittee shall annually update the information and place updated information in the operating record within 90 days following the close of the permittee's fiscal year. The Department may allow an additional 45 days for a permittee who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information shall encompass all required reports and records.

(d) The record keeping and reporting requirements are no longer applicable when the permittee:

- i. Substitutes alternate financial assurance that is not subject to the Record keeping and reporting requirements; or,
- ii. Is released from the requirements of providing financial assurance for closure, post-closure, and corrective action pursuant to this regulation.

(e) If the requirements of the financial component in Section E.4.e.(1) above are no longer met, within 120 days following the end of the facility's fiscal year, the permittee shall:

- i. Obtain alternative financial assurance that meets the requirements of this section;
- ii. Place the required submissions for that assurance in the operating record; and,
- iii. Notify the Department that the permittee no longer meets the criteria of the financial test and that alternate assurance has been obtained.

(f) Based on a reasonable belief that the requirements of the financial component are no longer met, at any time the Department may require the submittal of reports of its financial condition in addition to or including current financial test documentation pursuant to this regulation. If the Department finds that the permittee no longer meets the requirements of the financial component, the permittee shall provide alternate financial assurance that meets the requirements of this regulation.

(3) Calculation of costs to be assured. When calculating the current cost estimates for closure, post-closure care, corrective action, or the sum of the combination of such costs to be covered, and any other environmental obligations assured by a financial test pursuant to this regulation, the permittee shall include cost estimates required for municipal solid waste management facilities under this part, as well as cost estimates required for the following environmental obligations, if it assures them through a financial test: obligations associated with UIC facilities under 40 CFR part 144, petroleum underground storage tank facilities under 40 CFR part 280, PCB storage facilities under 40 CFR part 761, and hazardous waste treatment, storage, and disposal facilities under 40 CFR parts 264 and 265.

f. Local Government Financial Test. A permittee that satisfies the requirements of Sections E.4.f.(1) through (3) may demonstrate financial assurance up to the amount specified in Section E.4.f.(4) below:

(1) Financial Component.

(a) The permittee shall satisfy one of the following two conditions:

i. If the permittee has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, it shall have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard and Poor's on all such general obligation bonds; or,

ii. The permittee shall satisfy each of the following financial ratios based on the permittee's most recent audited annual financial statement:

(aa) A ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and,

(bb) A ratio of annual debt service to total expenditures less than or equal to 0.20.

(b) The permittee shall prepare its financial statements in conformity with Generally Accepted Accounting Principles for governments and have its financial statements audited by an independent certified public accountant (or appropriate State agency).

(c) A local government is not eligible to assure its obligations under the local government financial test if it:

- i. Is currently in default on any outstanding general obligation bonds; or,
- ii. Has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's; or,
- iii. Operated at a deficit equal to 5% or more of total annual revenue in each of the past two fiscal years; or,

iv. Receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant (or appropriate State agency) auditing its financial statement as required in Section E.4.f.(1)(b) above. However, the Department may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Department deems the qualification insufficient to warrant disallowance of use of the test.

(d) The following terms used in this Paragraph are defined as follows:

- i. "Deficit" equals total annual revenues minus total annual expenditures;
- ii. "Total revenues" include revenues from all taxes and fees but does not include the proceeds from borrowing or asset sales, excluding revenue from funds managed by local government on behalf of a specific third party;
- iii. "Total expenditures" include all expenditures excluding capital outlays and debt repayment;
- iv. "Cash plus marketable securities" is all the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions; and,
- v. "Debt service" is the amount of principal and interest due on a loan in a given time period, typically the current year.

(2) Public Notice Component. The local government permittee shall place a reference to the closure and post-closure care costs assured through the financial test into its next comprehensive annual financial report (CAFR) after the effective date of this section or prior to the initial receipt of waste at the facility, whichever is later. Disclosure shall include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years. A reference to corrective action costs shall be placed in the CAFR not later than 120 days after the corrective action remedy has been selected in accordance with this regulation. For the first year the financial test is used to assure costs at a particular facility, the reference may instead be placed in the operating record until issuance of the next available CAFR if timing does not permit the reference to be incorporated into the most recently issued CAFR or budget. For closure and post-closure costs, conformance with Government Accounting Standards Board Statement 18 assures compliance with this public notice component.

(3) Record Keeping and Reporting Requirements.

(a) The local government permittee shall place the following items in the facility's operating record and submit a copy to the Department:

- i. A letter signed by the local government's chief financial officer that:
 - (aa) Lists all the current cost estimates covered by a financial test as required;
 - (bb) Provides evidence and certifies that the local government meets the conditions of either the required rating for general obligation bonds or satisfies the required financial ratios pursuant to Section E.4.f.(1)(a) above, and financial statements and audits as required in Section E.4.f.(1)(b) above, and meets the criteria outlined in Section E.4.f.(1)(c) above regarding eligibility to assure its obligations; and,
 - (cc) Certifies that the local government meets the requirements established for public notification pursuant to Section E.4.f.(2) above, and the calculation of costs to be assured pursuant to Section E.4.f.(4) below;
- ii. The local government's independently audited year-end financial statements for the latest fiscal year (except for local governments where audits are required every two years and where unaudited statements may be used in years when audits are not required), including the unqualified opinion of the auditor who shall be an independent, certified public accountant or an appropriate State agency that conducts equivalent comprehensive audits;
- iii. A report to the local government from the local government's independent certified public accountant (CPA) or the appropriate State agency based on performing an agreed

upon procedures engagement relative to the financial ratios required by Section E.4.f.(1)(a)ii. of this section, if applicable, and the requirements for financial statements pursuant to Section E.4.f.(1)(b), and assuring obligations outlined in Sections E.4.f.(1)(c)iii. and iv. The CPA or State agency's report should state the procedures performed and the CPA or State agency's findings; and,

iv. A copy of the comprehensive annual financial report (CAFR) used to comply with the public notice requirements in Section E.4.f.(2) above or certification that the requirements of General Accounting Standards Board Statement 18 have been met.

(b) The record keeping and reporting requirements outlined in Section E.4.f.(3)(a) above shall be placed in the facility operating record and a copy submitted to the Department:

i. In the case of closure and post-closure care, prior to the initial receipt of waste at the facility; or,

ii. In the case of corrective action, not later than 120 days after the corrective action remedy is selected in accordance with the requirements of this regulation.

(c) After the initial placement of the items in the facility's operating record, the local government permittee shall update the information and place the updated information in the operating record and submit a copy to the Department within 180 days following the close of the permittee's fiscal year.

(d) The local government permittee is no longer required to meet the record keeping and reporting requirements outlined in Section E.4.f.(3) above when:

i. The permittee substitutes alternate financial assurance as specified in this section; or,

ii. The permittee is released from the requirements of this section in accordance with this regulation.

(e) A local government shall satisfy the requirements of the financial test at the close of each fiscal year. If the local government permittee no longer meets the requirements of the local government financial test it shall, within 210 days following the close of the permittee's fiscal year, obtain alternative financial assurance that meets the requirements of this section, place the required submissions for that assurance in the operating record, and notify the Department that the permittee no longer meets the criteria of the financial test and that alternate assurance has been obtained.

(f) The Department, based on a reasonable belief that the local government permittee may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the Department finds, on the basis of such reports or other information, that the permittee no longer meets the requirements of the local government financial test, the local government shall provide alternate financial assurance in accordance with this section.

(4) Calculation of Costs to be Assured. The portion of the closure, post-closure, and corrective action costs for which a permittee can assure under this Section is determined as follows:

(a) If the local government permittee does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43% of the local government's total annual revenue.

(b) If the local government assures other environmental obligations through a financial test, including those associated with UIC facilities under 40CFR144.62, petroleum underground storage tank facilities under 40CFR280, PCB storage facilities under 40CFR761, and hazardous waste treatment, storage, and disposal facilities under 40CFR264 and 265, it shall add those costs to the closure, post-closure, and corrective action costs it seeks to assure under this Item.

g. Local Government Guarantee. A permittee may demonstrate financial assurance for closure, post-closure, and corrective action, as required in this regulation, by obtaining a written guarantee provided by a local government. The guarantor shall meet the requirements of the Local Government Financial Test in Section E.4.f. above, and shall comply with the terms of a written guarantee.

(1) Terms of the Written Guarantee. The guarantee shall be effective before the initial receipt of waste, in the case of closure, post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with this regulation. The guarantee shall provide the following:

(a) If the permittee fails to perform closure, post-closure care, and/or corrective action of a facility covered by the guarantee, the guarantor shall:

- i. Perform, or pay a third party to perform, closure, post-closure care, and/or corrective action as required; or,
- ii. Establish a fully funded trust fund as specified in Section E.4.a. above in the name of the permittee.

(b) The guarantee shall remain in force unless the guarantor sends notice of cancellation by certified mail to the permittee and to the Department. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the permittee and the Department, as evidenced by the return receipts.

(c) If a guarantee is canceled, the permittee shall, within 90 days following receipt of the cancellation notice by the permittee and the Department, obtain alternate financial assurance, place evidence of that alternate financial assurance in the facility operating record, and notify the Department. If the permittee fails to provide alternate financial assurance within the 90 day period, the guarantor shall provide that alternate assurance within 120 days following the guarantor's notice of cancellation, place evidence of the alternate assurance in the facility operating record, and notify the Department.

(2) Record Keeping and Reporting.

(a) The permittee shall place a certified copy of the guarantee along with the items required in Section E.4.f.(3) above, into the facility's operating record and submit a copy to the Department before the initial receipt of waste in the case of closure, and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with this regulation.

(b) The permittee is no longer required to maintain the records specified in Section E.4.g.(2) above for the guarantee when:

- i. The permittee substitutes alternate financial assurance as specified in this section; or,
- ii. The permittee is released from the requirements of this section pursuant to the requirements for proper closure, completion of the post-closure care period, or completion of the corrective action remedy.

(c) If a local government guarantor no longer meets the requirements of the Local Government Financial Test in Section E.4.f. above, the permittee shall, within 90 days, obtain alternative assurance, place evidence of the alternate assurance in the facility operating record, and notify the Department. If the permittee fails to obtain alternate financial assurance within that ninety (90) day period, the guarantor shall provide that alternate assurance within the next 30 days.

h. State Approved Mechanism. A permittee may satisfy the requirements of this section by obtaining any other mechanism that meets the criteria for the language of the mechanism as specified in Section E.4.k. below, and that is approved by the Department.

i. Certificates of Deposit.

(1) A permittee may demonstrate financial assurance, wholly or in part, by assigning all rights, title and interest of a Certificate of Deposit (Certificate) to the Department, conditioned so that the permittee shall comply with the closure, post-closure care, or corrective action plan filed for the site. The amount of the Certificate shall be in an amount at least equal to the current closure, post-closure care, or corrective action cost estimate, whichever is applicable, for the site for which the permit application has been filed or any part thereof not covered by other financial assurance mechanisms. The permittee shall maintain the Certificate until proper final closure, post-closure care, or corrective action is completed. The original assignment of the Certificate of deposit shall be submitted to the Department to prove that the Certificate has been obtained and meets the requirements of this section. The Certificate shall be in the sole name of

the South Carolina Department of Environmental Services and shall be issued by a financial institution that is insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation. The Certificate may not have a maturity date of less than six (6) months. Those Certificates with a maturity date of less than one year shall provide for automatic renewal. In those instances where renewal is not automatic, the permittee shall renew or replace the instrument no less than 60 days before the maturity date.

(2) In addition to the certificate of deposit, the owners/operators shall establish a standby trust fund to receive payments using a trustee that has the authority to act as a trustee and that is regulated and examined by a Federal or State agency. The text of the standby trust fund shall be provided by the Department.

(3) The permittee shall be entitled to demand, receive, and recover the interest and income from the Certificate as it becomes due and payable as long as the market value of the Certificate plus any other mechanisms used continue to at least equal the amount of the estimated current closure, post-closure care, or corrective action cost.

(4) Whenever the approved closure or post-closure maintenance care cost estimates or corrective action cost estimate increases to an amount greater than the amount of the certificate of deposit, the permittee shall, within 60 days of the increase, cause the amount of the certificate of deposit to be increased to an amount at least equal to the new estimate or obtain other financial assurance pursuant to this regulation to cover the increase. Anytime the cost estimate decreases, the permittee may reduce the amount of the certificate of deposit to the new estimate following written approval by the Department. The permittee shall submit a certificate of deposit and assignment reflecting the new cost estimate within 60 days of the change in the cost estimate.

(5) The Department will return the original assignment and certificate of deposit, if applicable, to the issuing institution for termination when the permittee substitutes acceptable alternate financial assurance or if the permittee is no longer required to maintain financial assurance in accordance with this regulation.

j. Use of Multiple Financial Mechanisms. A permittee may demonstrate financial assurance for closure, post-closure, and corrective action, as required in this regulation by establishing more than one financial mechanism per facility except that mechanisms guaranteeing performance rather than payment, may not be combined with other instruments. The mechanisms shall be as specified in Sections E.4.a., b., c., d., e., f., g., h. and i., except that financial assurance for an amount at least equal to the current cost estimate for closure, post-closure care, and/or corrective action may be provided by a combination of mechanisms rather than a single mechanism.

k. The language of the mechanisms listed in Sections E.4. a., b., c., d., e., f., g., h. and i. of this section shall ensure that the instruments satisfy the following criteria:

(1) The financial assurance mechanisms shall ensure that the amount of funds assured is sufficient to cover the costs of closure, post-closure care, and corrective action for known releases when needed;

(2) The financial assurance mechanisms shall ensure that funds will be available in a timely fashion when needed;

(3) The financial assurance mechanisms shall be obtained by the permittee by the effective date of these requirements or prior to the initial receipt of solid waste, whichever is later, in the case of closure and post-closure care, and no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of this regulation until the permittee is released from the financial assurance requirements pursuant to this regulation;

(4) The financial assurance mechanisms shall be legally valid, binding, and enforceable under State and Federal law.

5. Discounting. The Department may allow discounting of closure cost estimates, post-closure cost estimates, and/or corrective action costs up to the rate of return for essentially risk free investments, net of inflation, under the following conditions:

a. The Department determines that the cost estimates are complete and accurate and the permittee has submitted a statement from a S.C. Registered Professional Engineer so stating;

b. The Department finds the facility in compliance with applicable and appropriate permit conditions;

c. The Department determines that the closure date is certain and the permittee certifies that there are no foreseeable factors that will change the estimate of site life; and,

d. Discounted cost estimates shall be adjusted annually to reflect inflation and years of remaining life.

6. Incapacity of Permittee or Financial Institution.

a. A permittee shall notify the Department by certified mail within 10 days of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the permittee as debtor.

b. In the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee or institution, that issues a surety bond, letter of credit, certificate of deposit, or insurance policy pursuant to this regulation, the permittee shall be deemed in violation of the financial assurance requirements. The permittee shall establish with Department approval other financial assurance within 60 days of such event.

7. Default by Permittee.

a. The Department may take possession of a financial assurance fund if the permittee fails to:

(1) Complete closure or post-closure maintenance care in accordance with the Department approved facility plan;

(2) Complete corrective action; or,

(3) Renew or provide alternate acceptable financial assurance as required.

b. Prior to taking possession of a financial assurance funds, the Department shall:

(1) Issue a notice of violation or order alleging that the permittee has failed to perform closure or post-closure care in accordance with the closure or post-closure care plan or permit requirements; and,

(2) Provide the permittee seven days notice and an opportunity for a hearing.

F. Permit Applicant Requirements.

1. Disclosure. Prior to issuance of a Department permit for Classes One, Two, and Three landfills, a disclosure statement, pursuant to S.C. Code Section 44-96-300 and in a format approved by the Department, shall be submitted to the Department. The Department may accept one disclosure statement for multiple facility permit applicants. This requirement shall not apply if the applicant is a local government or a region comprised of local governments. The disclosure statement shall contain the following information with regard to the applicant and his responsible parties:

a. The full name, business address, and social security number of all responsible parties;

b. A description of the experience and credentials, including any past or present permits or licenses for the collection, transportation, treatment, storage, or disposal of solid waste issued to or held by the applicant within the past five years;

c. A listing and explanation of all convictions by final judgment of a responsible party in a state or federal court, whether under appeal or not, of a crime of moral turpitude punishable by a fine of five thousand dollars (\$5,000.00) or more or imprisonment for one year or more, or both, within five years immediately preceding the date of the submission of the permit application;

d. A listing and explanation of all convictions by final judgment of a responsible party in a state or federal court, whether under appeal or not, of a criminal or civil offense involving a violation of an environmental law punishable by a fine of five thousand dollars (\$5,000.00) or more or imprisonment for one year or more, or both, in a state or federal court within five years of the date of submission of the permit application;

e. A listing and explanation of the instances in which a disposal facility permit held by the applicant was revoked by final judgment in a state or federal court, whether under appeal or not, within five years of the date of submission of the permit application;

f. A listing and explanation of all adjudications of the applicant for having been in contempt of any valid court order enforcing any federal environmental law or any state environmental law relative to the activity for which the permit is being sought, within five years of the date of submission of the permit application; and,

g. If a responsible party of an applicant is a chartered lending institution or a publicly held corporation reporting under the Federal Securities and Exchange Act of 1934 or a wholly-owned subsidiary of a publicly held corporation reporting under the Federal Securities and Exchange Act of 1934, the information required under S.C. Code Section 44-96-300(A)(6), such responsible party shall submit to the Dept. reports covering its structure and operations as required by the chartering body or the Federal Securities and Exchange Commission. The Department is authorized to require a responsible party to provide such additional information to the Department as is reasonably necessary to make the determinations provided for in S.C. Code Section 44-96-300.

2. Permittee Requirements.

a. The permittee is required to notify the Department by certified mail within 10 days of any of the following conditions:

- (1) Commencing a voluntary or involuntary proceeding in bankruptcy, naming the permittee as debtor;
- (2) The sale of the holder of the permit or approval;
- (3) The sale of the permitted or approved facility; or,
- (4) The dissolution of the holder of the permit or approval.

b. Transfer of Ownership.

(1) The Department may, upon written request, transfer a permit to a new permittee where no other change in the permit is necessary. The proposed new owner of a permitted landfill shall, prior to the scheduled change in ownership, submit to the Department:

- (a) Documentation of the new owner's name and address.
- (b) Documentation of the name and address of the party responsible for the operation and maintenance of the landfill, if different from the owner.
- (c) A written agreement signed by both parties indicating the intent to change ownership or operating responsibility of the facility. The agreement shall contain:
 - i. A specific date for the transfer of permit responsibility; and,
 - ii. A statement that the new permittee will operate the landfill in accordance with the existing permit in effect at the time of transfer.
- (d) Documentation of financial assurance as required in Part I, Section E. of this regulation. The previous owner shall maintain financial assurance responsibilities until the new owner can demonstrate satisfactory compliance with Part I, Section E. of this regulation.
- (e) A Disclosure Statement for the new owner pursuant to Subsection F.1. above.

(2) Upon approval of all items required by Subsection F.2.b.(1) above, the Department shall transfer the permit from the original owner of the landfill to the new owner.

(3) A request for a permit modification shall be submitted with the transfer of ownership request, if the landfill will not be operated in accordance with the approved plans. The permit modification shall be in accordance with all provisions of this regulation.

(4) The new owner shall submit legal documentation of the transfer of ownership of the landfill within 15 days of the actual transfer.

G. Severability. Should any regulation, paragraph, sentence, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

H. Violations and Penalties. A violation of this regulation or violation of any permit, order, or standard subjects the person to the issuance of a Department order, or a civil or criminal enforcement action in accordance with S.C. Code Section 44-96-450. In addition, the Department may impose

reasonable civil penalties not to exceed ten thousand dollars (\$10,000.00) for each day of violation of the provisions of this regulation, including violation of any order, permit or standard.

I. Appeals.

1. A Department decision involving the issuance, denial, renewal, suspension, revocation or request for a variance of a permit may be appealed by an affected person with standing pursuant to applicable law, including S.C. Code Title 48, Chapter 6; and Title 1, Chapter 23. Any person to whom an order is issued may appeal it pursuant to applicable law.

2. Determinations of Need and Consistency pursuant to Part I, Section D.1. may be appealed at the time such determinations are issued and may not be raised as part of an appeal of a decision on the permit.

J. Variances. Any request for variances to these rules and regulations shall be directed in writing to, and will be considered by, the Department on an individual basis.

HISTORY: Added by State Register Volume 32, Issue No. 5, eff May 23, 2008. Amended by SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

Editor's Note

Republished in 2016 to correct a scrivener's error.

Part II. Permit-by-rule: Short Term Structural Fill.

A. General Provisions. Structural fill activities shall comply with the requirements in this Part.

1. Structural fill activity shall be deemed to have a permit for disposal of the items listed below when the site is registered with the Department, and designed, constructed and operated in compliance with the requirements in this Part. Written approval from the Department to operate under the Permit-by-rule shall be obtained prior to filling. Approval for structural fill areas may be issued per tract of land and no less than 500 feet from a present or former fill area on the same tract of land under the same ownership, unless otherwise approved by the Department.

2. Structural fill may not provide a sound structural base for building purposes.

3. Structural fill activity in rights-of-way directly related to road construction under contract with the S.C. Department of Transportation shall be exempt from this Part.

4. Department approved structural fill activity shall:

a. Have a proposed life of twelve (12) months or less;

b. Occupy one (1) acre in size or less;

c. Use only those items listed below that have not been contaminated by hazardous constituents listed in the S.C. Hazardous Waste Management Regulations 61-79.261 (e.g., pesticides), petroleum products, or painted with lead-based paint:

(1) Hardened concrete (may include rebar);

(2) Hardened asphaltic concrete;

(3) Bricks;

(4) Masonry blocks; and,

(5) Land-clearing debris; and,

d. Be consistent with the South Carolina Coastal Zone Management Plan if the fill area is located in the coastal zone as defined in SC Code Section 48-39-10.B.

5. Should the Department have sufficient reason to believe that environmental and/or health problems are associated with an area that contains structural fill material, monitoring (including groundwater, surface water, and air quality monitoring) may be required by the Department to ensure protection of the environment.

B. Permit-by-rule Registration Requirements.

1. Prior to engaging in structural fill activity, the landowner or landowner's agent shall receive written approval from the Department to operate under the Permit-by-rule for a specific site. "Agent" means one that acts for or as a representative of another. To request approval and register a site, a completed registration form provided by the Department and all information required by this Part shall be submitted to the Department. The Department will process the administratively

complete registration and notify the owner/agent in writing if the site is approved for structural fill activity under the Permit-by-rule.

2. All required information submitted to the Department shall be complete and accurate. The landowner and agent shall sign the registration form and the following certification: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in the attached document; and, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

3. To request approval to operate under the Permit-by-rule, three copies of the following documents shall be submitted to the Department:

- a. A registration form provided by the Department;
- b. A current county map showing the location of the proposed fill area;
- c. Proof of ownership or control of the property;
- d. Site information to include:
 - (1) A written description of the location of the area that will accept the fill material including road names/numbers;
 - (2) The source(s) supplying the fill material;
 - (3) The anticipated time frame for filling the area;
 - (4) The size of the area to be filled;
 - (5) The maximum volume the fill area will be capable of receiving; and,
 - (6) The latitude and longitude coordinates of the proposed fill area;
- e. An explanation of how the waste will be compacted and the cover applied; and,
- f. Other pertinent information as deemed appropriate by the Department.

C. Location Restrictions.

1. Buffers. The boundary of the fill area shall not be located within:

- a. 100 feet of any property line. Variances may be requested and granted on a case-by-case basis upon submittal of written consent from the adjacent landowner(s);
- b. 200 feet of any residence, school, day-care center, church, hospital and publicly owned recreational park area;
- c. 200 feet of any surface water that holds visible water for greater than six consecutive months, excluding ditches, sedimentation ponds, and other operational features on the site;
- d. 100 feet of any drinking water well. A greater buffer may be required for compliance with the Department's Bureau of Water requirements;
- e. The right-of-way of underground or above ground utility equipment or structures, i.e., water lines, sewer lines, storm drains, telephone lines, electric lines, etc., without the written approval of the impacted utility; and,
- f. 50 feet of any wetlands, unless the permittee has obtained the permits and/or authorizations required by all other state and federal laws and regulations for the impact of such wetlands.

2. Fill areas shall be adjacent to or have direct access to roads which are of all weather construction and capable of withstanding anticipated load limits.

D. Design Requirements for Structural Fill.

1. The fill area shall meet the following standards, unless otherwise approved in writing by the Department:

- a. Fill areas located in the 100-year floodplain shall not restrict the flow of the 100-year flood;
- b. The fill area shall be consistent with the South Carolina Coastal Zone Management Plan if the site is located in the coastal zone as defined in SC Code Section 48-39-10.B.;
- c. Access to the structural fill area shall be controlled through the use of fences, gates, berms, natural barriers, or other means to prevent promiscuous dumping and unauthorized access; and,

d. Fill material shall not be placed in water. If the fill area becomes inundated with water, all water shall be removed before adding additional fill material.

2. Procedures shall be established for maintaining conditions that are unfavorable for the habitation and production of vectors.

E. Operating Criteria. The following operational requirements shall apply to all structural fill activity, unless otherwise approved in writing by the Department:

1. The fill area shall accept only those waste items listed below that have not been painted with lead-based paint, and have not been contaminated by hazardous constituents listed in the S.C. Hazardous Waste Management Regulations 61-79.261 (e.g., pesticides), or petroleum products, and that have been reduced in size to less than or equal to one (≤ 1) cubic yard pieces with no side exceeding three feet in length:

- a. Hardened concrete (may include rebar);
- b. Hardened asphaltic concrete;
- c. Bricks;
- d. Masonry blocks; and,
- e. Land-clearing debris.

2. The fill area shall have an attendant on duty any time fill material is being received.

3. Unauthorized wastes shall be removed from the fill area to an approved facility within 48 hours of receipt.

4. The fill area shall be staked prior to receipt of fill material, and the stakes shall remain until the fill area is properly closed.

5. The unloading of fill material shall be restricted to the working face of the fill area.

6. The working face of the fill area shall be confined to as small an area as the equipment can safely and efficiently operate. The slope shall not exceed 33%.

7. The fill material shall be compacted and a cover consisting of a uniform layer of soil or other suitable material, or both, acceptable to the Department, no less than six 6 inches in depth shall be used to cover all exposed waste material at least every 30 days.

8. Open burning at fill areas shall be prohibited.

9. The fill area shall be maintained and operated in a manner that protects the established water quality standards of the surface waters and ground waters.

10. Dust, odors, fire hazards, litter and vectors shall be effectively controlled so they do not constitute nuisances or hazards.

F. Closure.

1. Within 12 months of the Department's issuance of approval to operate under the Permit-by-rule, the owner/agent of the filled area shall:

a. Apply a minimum two-foot thick final earth cover with at least a 1%, but not greater than 4% surface slope, graded to promote positive drainage. The side slope cover shall not exceed three horizontal feet to one vertical foot, i.e., a 3:1 slope;

b. Either:

(1) Begin construction of the foundation of a building project; or,

(2) 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 vegetative cover with no substantial bare spots;

c. 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 which is normally examined during 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., clean brick; and,

d. Submit to the Department a copy of the document in which the notation required by Section F.1.c. above was placed.

2. Upon the Department's receipt of the document defined in Section F.1.c. above, the owner/agent's approval to fill under the Permit-by-rule for this site shall be terminated.

3. If the Department has sufficient reason to believe that there are environmental problems associated with the fill area, the owner/agent shall submit for Department review and approval, a corrective action plan and a schedule of compliance for implementing the plan.

HISTORY: Added by State Register Volume 32, Issue No. 5, eff May 23, 2008.

Editor's Note

Republished in 2016 to correct a scrivener's error.

Part III. Class One Landfills - General Permit for Disposal of Land-Clearing Debris and Yard Trash

A. General Permit.

1. The Department may issue a general permit for solid waste landfills used solely for the disposal of trees, stumps, wood chips, and yard trash that is generated from land-clearing activities, excluding agricultural and silvicultural operations when generation and disposal are on site. These landfills shall be limited to filling to grade, of low areas or depressions in the surface of the earth to include permitted mining sites for an aesthetic benefit or property enhancement. Beneficial fill does not provide a sound structural base for building purposes, but does provide an aesthetic benefit.

2. The general permit shall outline the following:

- a. Submittal requirements;
- b. Design criteria;
- c. Operational criteria;
- d. Monitoring, if applicable; and,
- e. Closure and corrective action requirements, if applicable.

3. The general permit, pursuant to this Part, may be issued, modified, revoked and reissued, or terminated in accordance with applicable requirements of this regulation and subject to the terms and conditions in this regulation.

4. The Department shall publish a notice of any general permit issued, modified, revoked, or reissued.

B. General Provisions.

1. Landfills approved to operate under the General Permit shall be known as Class One landfills.

2. Class One landfills shall be consistent with the State and Region/County Solid Waste Management Plans, local zoning, land use and other applicable ordinances.

3. A Class One Landfill shall be covered under the State's general permit if it provides proper notification of intent to the Department as outlined in the general permit, and if constructed and operated in compliance with the requirements established by the permit and this regulation.

4. Prior to submittal to the Department of a written Notice of Intent, pursuant to Section C. below, the owners/operator seeking coverage under the general permit shall:

a. Publish a notice informing the public of the intent to operate under the General Permit. All notices shall be published once in a newspaper of general circulation in the area of the proposed landfill project and contain the following:

- (1) Name and address of the applicant;
- (2) The location of the proposed activity to include the county, roads and crossroads;
- (3) The nature of the proposed activity;
- (4) A description of the proposed site or a description of the proposed major modification;
- (5) An explanation of the type(s) of waste that will be accepted;
- (6) The Department's address and contact name for submittal of comments and inquiries;
- (7) The approximate tonnage/year expected for disposal at the landfill; and,
- (8) The proposed life of the landfill.

b. Submit to the Department:

(1) A written Notice of Intent, pursuant to Section C. below, to be covered by the general permit on a form approved by the Department;

(2) An affidavit of publication in a newspaper for the public notice required in Section B.4.a. above;

(3) The names and addresses of the owners of real property as they appear on the county tax maps as contiguous landowners of the proposed permit area; and,

(4) A disclosure statement pursuant to Part I, Section F.1.

5. The Department will notify by certified mail, return receipt requested, all adjoining landowners of receipt of the Intent to Operate under the General Permit.

6. Written Department approval to operate under the General Permit shall be received prior to operation of a Class One landfill.

7. Upon a determination by the Department and written notification that the landfill poses an actual or potential threat to human health or the environment, the Department may require the permittee to implement corrective measures as appropriate.

8. A Class One Landfill's approval to operate under the general permit may be revoked for any of the following reasons:

a. The facility fails to comply with the conditions of the general permit or this regulation;

b. Circumstances have changed since the time of the requested approval to operate so that the permittee is no longer appropriately regulated under the general permit, or a temporary or permanent closure of the landfill is necessary; and,

c. Environmental and/or health problems associated with the landfill are detected by the Department.

9. When an individual solid waste landfill permit is issued to a permittee otherwise subject to the general permit, the applicability of the general permit to that landfill is automatically terminated on the effective date of the individual permit.

10. A landfill excluded from the general permit solely because it already has an individual landfill permit may request that the individual permit be revoked, and that the landfill be covered by the general permit. Upon revocation of the individual permit and approval of the Notice of Intent to operate under the general permit, the general permit shall apply to the landfill.

C. Notice of Intent.

1. Prior to landfilling land-clearing debris under the State's general permit, the permittee shall submit to the Department a Notice of Intent on a form approved by the Department. This Notice shall be accompanied by all information required by the general permit. All required information shall be complete and accurate.

2. The Notice of Intent shall be signed by the landfill applicant. The landowner shall also sign the Notice of Intent, thereby giving authorization for the proposed landfilling activity on said property. Any changes in the written authorization submitted to the Department which occur after the issuance of the Department's approval to operate under the general permit shall be reported to the Department by submitting a copy of the new written authorization.

3. Any person signing a Notice of Intent to landfill under the general information shall also sign the following certification: I certify under penalty of law that I have personally examined and am familiar with the information submitted in the attached document; and, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

D. Record Keeping and Reporting Requirements. Landfills operating under the General Permit shall submit in a format approved by the Department an annual report for the fiscal year beginning on July 1, and ending on June 30. This report shall be submitted to the Department on or before September 1, and shall identify the actual weight in tons or volume in cubic yards of wastes received per month at the land-clearing debris and yard trash landfill. Any records required by this regulation

shall be retained near the facility in an operating record, or in an alternative location approved by the Department for a period of no less than three years.

HISTORY: Added by State Register Volume 32, Issue No. 5, eff May 23, 2008.

Part IV. Class Two Landfills.

A. General Provisions.

1. Applicability. Part IV. establishes minimum criteria for all landfills used for the disposal of: waste as outlined in Appendix I of this regulation; other wastes not listed in Appendix I that demonstrate similar properties to the wastes listed and are approved by the Department on a case-by-case basis; or, wastes that test less than ten (<10) times the maximum contaminant level (MCL) as published in R.61-58, State Primary Drinking Water Regulation current at the time of submittal of the permit application. The testing criteria outlined in Part I., Section C. Waste Characterization shall be used when testing is required. Hereinafter, these landfills will be referred to as Class Two landfills.

2. The siting, design, construction, operation, and closure activities of Class Two landfills shall conform to the standards set forth in this Part as well as applicable requirements in Part I of this regulation.

3. Prior to the construction, operation, expansion or modification of a Class Two landfill, a permit shall be obtained from the Department.

4. Only those items listed in Appendix I of this regulation, approved Appendix I-type waste, and any items specifically listed on the facility's permit issued by the Department may be accepted for disposal at a Class Two landfill. These wastes shall not be contaminated with hazardous constituents listed in the S.C. Hazardous Waste Management Regulations 61-79.261 (e.g., pesticides), or petroleum products. When a waste not listed in Appendix I is approved by the Department for disposal, the landfill's permit will be modified to add the approved waste. A list of Appendix I-type waste will be available from the Department.

5. Class Two landfills shall be consistent with the State and the Region/County Solid Waste Management Plans, local zoning, land use and other applicable ordinances. On-site landfills are not required to demonstrate consistency with the State and Region/County Solid Waste Management Plans.

B. Location Restrictions.

1. Buffers. Unless otherwise approved by the Department, the site for a new landfill or expansion of an existing landfill shall meet the following standards:

a. The boundary of the fill area shall not be located within 1,000 feet of any residence, school, day-care center, church, hospital, or publicly owned recreational park area. The Department will determine whether the new landfill or expansion of an existing landfill meets this requirement prior to the publication of the Notice of Intent to File a Permit Application pursuant to Part I, Section D.1 of this Regulation;

b. A landfill located in a 100-year floodplain shall demonstrate that engineering measures have been incorporated into the landfill design to ensure the landfill will not restrict the flow of the 100-year flood, reduce the temporary water storage capacity of the flood plain, minimize potential for floodwaters coming into contact with waste, or result in the washout of solid waste so as to pose a hazard to human health or the environment;

c. The landfill shall be in compliance with applicable requirements concerning wetlands imposed by the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and the Department;

d. Access to the landfill shall be controlled through the use of fences, gates, berms, natural barriers, or other means to prevent promiscuous dumping and unauthorized access;

e. The boundary of the fill area shall not be located within 100 feet of any property line. An exemption may be issued by the Department upon receipt of written approval from adjacent property owners;

f. The boundary of the fill area shall not be located within 200 feet of any surface water that holds visible water for greater than six consecutive months, excluding drainage ditches, sedimentation ponds and other operational features on the site;

g. The boundary of the fill area shall not be located within 100 feet of any drinking water well. A greater buffer may be required for compliance with the Department's Bureau of Water requirements;

h. Waste material shall not be placed on or within any property rights-of-way or 50 feet of underground or above ground utility equipment or structures, i.e., water lines, sewer lines, storm drains, telephone lines, electric lines, natural gas lines, etc., without the written approval of the impacted utility.

2. Airport Safety. These requirements apply to all Class Two landfills permitted/approved for disposal of animal carcasses.

a. Owners/operators of all Class Two landfills located within 10,000 feet of any runway end used by turbojet aircraft or within 5,000 feet of any airport runway end used by only piston-type aircraft shall demonstrate that the units are designed and operated so that the Class Two landfill does not pose a bird hazard to aircraft.

b. Owners/operators proposing to site new Class Two landfills and lateral expansions located within a five mile radius of any airport runway end used by turbojet or piston-type aircraft shall notify the affected airport and the Federal Aviation Administration (FAA).

C. Operation Criteria for Class Two Landfills.

1. Owners/operators of all Class Two landfills shall implement a program at the facility for detecting and preventing the disposal of regulated hazardous wastes as defined in R.61-79 Hazardous Waste Management Regulations, Part 261, polychlorinated biphenyls (PCB) wastes as defined in Resource Conservation and Recovery Act (RCRA), Part 761, and wastes not specifically allowed by the permit. This program shall include, at a minimum:

a. Inspections of all incoming loads when deposited and prior to compaction unless the permittee takes other steps to ensure that incoming loads do not contain regulated hazardous wastes, PCB wastes, or wastes not specifically allowed by the permit;

b. Records of unacceptable waste to include waste quantity and description and generator information;

c. Training of facility personnel to recognize wastes not specifically allowed by the permit, regulated hazardous waste and PCB wastes; and,

d. Notification of the Department within 72 hours if the operator suspects that a regulated hazardous waste or PCB waste has been discovered at the facility.

2. The Class Two landfill shall, prior to receipt of any waste materials that are not specifically listed in the permit application, submit for Department approval a characterization of the waste materials to determine the suitability for disposal in the landfill unless the Department grants an exemption for like materials.

3. Unless otherwise approved by the Department:

a. Unauthorized wastes shall be removed from the working face prior to cover or at the end of the working day, whichever occurs first, and placed into an appropriate container; and,

b. Unauthorized waste shall be removed from the site for proper disposal no less than every 30 days unless otherwise approved by the Department. Putrescible waste shall be removed from the working face, placed in a container, and removed from the site within 72-hours of receipt. The Department may require more frequent removal based on the nature or quantity of other unacceptable waste.

4. The unloading of solid waste intended for disposal in the landfill shall be restricted to the working face of the landfill. Unloading of the waste adjacent to the working face within the permitted boundaries of the landfill may be allowed for the purpose of screening the waste stream.

5. The working face of the landfill shall be confined to as small an area as the equipment can safely and efficiently operate. The slope shall not exceed 33%.

6. Solid waste shall be spread in uniform layers to the extent practical and compacted to its smallest practical volume.

7. A uniform compacted layer of clean earth cover or other suitable cover material acceptable to the Department, no less than six (6) inches in depth shall be placed over all exposed waste material at least every 30 days, unless otherwise approved by the Department. The frequency of cover may be increased or decreased as determined by the Department. More frequent cover may be required by the Department based on the nature of the disposed materials and daily disposal rate in order to address landfill gas generation, odor, leachate formation or any environmental safety and health problems.

8. Open burning at landfills is prohibited.

9. The site shall be maintained and operated in a manner that protects the established water quality standards of the surface waters and ground waters.

10. Dust, odors, fire hazards, litter and vectors shall be effectively controlled so they do not constitute nuisances or hazards.

11. The landfill shall have an attendant on duty at all times the facility is open.

12. Sign Requirements. Signs shall be posted and maintained at the main entrance that:

a. Identify the owner, operator, or a contact person and telephone number in case of emergencies and the normal hours during which the landfill is open to receive waste;

b. State the types of waste that the landfill is permitted to receive; and,

c. Identify the valid SCDES Facility Identification Number.

13. Class Two landfills shall install and maintain scales capable of accurately determining the weight of incoming waste streams. Landfills that receive less than 10,000 tons/year are exempt from this requirements.

14. On-site landfills are exempt from Sections 11. 12. and 13. above.

15. Prior to accepting any materials containing asbestos for disposal at the landfill, the operator shall include in its landfill records a copy of the Permission for Disposal letter from the Department. The landfill shall retain these letters for a period of not less than three years and shall make them available to the Department upon request, if applicable.

16. Reporting Requirements.

a. Contingency Plan. Upon implementation of a contingency plan, the Department shall be notified immediately by telephone of actions taken. Written confirmation shall be sent to the Department within 72 hours.

b. Groundwater Monitoring. Reporting requirements as outlined in Subpart E. below.

c. Landfill Operation.

(1) Landfills, with the exception of on-site landfills, shall maintain daily records of:

(a) The actual weight in tons of waste received; and,

(b) The particular grid location of the area currently being used for disposal of solid waste.

(2) Landfills shall submit in a format approved by the Department an annual report for the fiscal year beginning on July 1 and ending on June 30. This report shall be submitted to the Department on or before September 1, and shall include the information outlined below:

(a) The actual weight in tons of wastes received per month;

(b) The county of origin of the waste; and,

(c) A description of the capacity of the landfill used in the previous fiscal year and the remaining permitted capacity. A yearly survey conducted by a S.C. certified land surveyor or engineer may be required by the Department on a case-by-case basis.

d. Any records required by this regulation for Class Two landfills shall be retained near the facility in an operating record, or in an alternative location approved by the Department, for a period of no less than three years.

17. Access to fire equipment and firefighting services shall be provided.

18. Procedures shall be established for maintaining conditions that are unfavorable for the habitation and production of insects, rodents and other pests.

19. A groundwater monitoring system shall be installed in accordance with Section E. below.

20. The landfill shall be adjacent to or have direct access to roads that are of all-weather construction and capable of withstanding anticipated load limits.

21. A gas monitoring system shall be designed and installed as required on a case-by-case basis to ensure that gas generated at the landfill will not create a hazard to health, safety, or property.

D. Design Criteria for Class Two Landfills.

1. The estimated deflected (or settled) bottom elevation of the landfill base grade shall be a minimum of two feet above the seasonal high water table elevation as it exists prior to the construction of the disposal area. The seasonal high water table shall be determined by interpretation of a minimum of 12 months data obtained from a representative number of monitoring wells approved by the Department. In cases where there is insufficient information to support the seasonal high water table elevation determination, additional separation may be required by the Department. The Department will inspect the landfill prior to the initial placement of waste in the landfill.

2. Drainage control requirements.

a. The disposal area shall be graded with a minimum of a 1% slope so as to divert and minimize run-off into the disposal area of the landfill, to prevent erosion and ponding within the disposal area, and to drain water from the surface of the landfill.

b. Prior to accepting waste, the owners/operators shall design, construct, and subsequently maintain:

(1) A run-on control system to prevent flow onto the active portion of the landfill during peak discharge from a 24-hour, 25-year storm; and,

(2) A run-off control system from the active portion of the landfill to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

c. An appropriate permit from the Department may be required prior to the discharge of any storm waters to surface waters.

E. Groundwater Monitoring and Corrective Action.

1. General Groundwater Monitoring Requirements.

a. All submittals made to the Department in compliance with this Section shall be signed and stamped by a qualified professional.

b. All Class Two landfills shall implement a groundwater monitoring program as follows:

(1) New Class Two landfills, or lateral expansions of existing Class Two landfills shall submit a groundwater monitoring plan to monitor the entire landfill that meets the requirements of this Section as part of the permit application; and,

(2) Existing Class Two landfills shall, within 180 days of the effective date of this regulation, submit to the Department either a groundwater detection monitoring plan that meets the requirements of this Section, or written notification that the landfill plans to cease accepting waste within one year or less from the effective date of this regulation. Within 180 days of the Department's approval of the groundwater detection monitoring plan, the monitoring system shall be installed at the landfill. Facilities that cease accepting waste within one year of the effective date of this regulation are exempt from the groundwater monitoring requirements outlined herein. Landfills meeting this exemption shall submit a closure plan to the Department within 180 days of the effective date of this regulation. Additional time may be allowed for the installation of the groundwater monitoring system with prior approval from the Department;

(3) Existing Class Two landfills which have been performing groundwater monitoring prior to the requirements of this regulation shall within 90 days of the effective date submit to the Department certification by a qualified professional that the existing groundwater monitoring program meets the intent of this regulation. Any changes necessary to the existing groundwa-

ter monitoring system to ensure compliance with this regulation should be discussed in the certification letter.

c. A groundwater monitoring system shall consist of a sufficient number of wells installed at appropriate locations and depths to yield representative groundwater samples from the uppermost aquifer that can determine if contamination has occurred due to a release from the landfill. There shall be a minimum of one well up-gradient and three wells down-gradient of the disposal unit. These wells shall:

(1) Represent the quality of background groundwater that has not been affected by the landfill; and,

(2) Represent the quality of groundwater passing from beneath the waste disposal area footprint. The downgradient monitoring system shall be installed as close as practical to the actual disposal area but no further than 150 feet from the actual disposal area unless previously installed with Department approval, and shall ensure detection of any groundwater contamination in the uppermost aquifer.

d. The number, spacing, and depths of the wells in the monitoring network shall be determined based upon site-specific technical information that shall include thorough characterization of:

(1) Aquifer thickness, groundwater flow rate, groundwater flow direction including seasonal and temporal fluctuations in groundwater flow; and,

(2) Saturated and unsaturated geologic units and fill materials overlying the uppermost aquifer, materials comprising the uppermost aquifer, and materials comprising the confining unit defining the lower boundary of the uppermost aquifer, including, but not limited to: thicknesses, stratigraphy, lithology, hydraulic conductivities, porosities and effective porosities.

e. Monitoring wells shall be approved by the Department prior to installation and shall be constructed, at a minimum, to the standards established in the South Carolina Well Standards, R.61-71.H.

(1) The permittee shall maintain an operating record that contains documentation of the design, installation, development, and abandonment of any monitoring wells, piezometers and other measurement, sampling, and analytical devices; and,

(2) The monitoring wells, piezometers, and other measurement, sampling, and analytical devices must be maintained and operated so that they perform to design specifications throughout the life of the monitoring program.

(3) All monitoring wells, piezometers or other environmental sampling locations shall be located by a South Carolina Certified Land Surveyor. For wells, the elevation of the ground surface and the elevation of the top of the well casing shall also be determined to the nearest 0.01 ft above mean sea level.

f. Routine groundwater monitoring shall continue while the facility is performing detection monitoring, assessment or remediation activities.

g. The groundwater monitoring program shall include consistent sampling and analysis procedures that are designed to ensure monitoring results that provide an accurate representation of groundwater quality. A laboratory certified by South Carolina under R.61-81 State Environmental Laboratory Certification Program for the sample preparations and analysis methods employed shall conduct all groundwater analysis required by this regulation.

(1) The permittee shall submit to the Department for review and approval, a sampling and analysis plan outlining procedures and protocols to be used at the facility. The plan shall include procedures and techniques for:

(a) Sample collection;

(b) Sample preservation and shipment;

(c) Analytical procedures;

(d) Chain of custody control; and,

(e) Quality assurance and quality control.

(2) The groundwater monitoring program shall include approved sampling and analytical methods that are appropriate for groundwater sampling and that accurately measure the constituents in groundwater samples. Analytical methods chosen shall have a practical quantitation limit (PQL) that is less than the Maximum Concentration Level (MCL) for those constituents that have a MCL as established by the State Primary Drinking Water Regulation R.61-58. Groundwater samples required by this regulation shall not be field-filtered prior to laboratory analysis.

(3) Groundwater potentiometric elevations shall be measured and recorded for each well prior to initiating sampling procedures each time groundwater is sampled. Groundwater elevations in wells must be measured on the same day to avoid temporal variations in groundwater elevations that could preclude an accurate determination of groundwater flow rate and direction. The permittee must determine the potentiometric surface of each aquifer unit comprising the uppermost aquifer and report the rate and direction of groundwater flow each time groundwater is sampled.

(4) The results and supporting documentation, e.g., field data sheets, laboratory quality assurance /quality control testing, for all groundwater sample analysis taken during detection monitoring shall be submitted to the Department in accordance with the reporting requirements in this Subpart.

h. The permittee shall submit to the Department on or before the anniversary date of issuance of the permit, an annual report for the previous year containing the results of the requirements of this Section. The annual report shall contain the following:

(1) A summary of all analytical testing performed at the site during the previous year, and any applicable data concerning sampling and analysis of monitoring wells at the site;

(2) A determination of the technical sufficiency of the monitoring well network in detecting a release from the facility;

(3) A determination of groundwater elevations, groundwater flow directions and groundwater flow rates as specified in Section E.1.g.(3) above. Groundwater flow directions shall be based upon interpretation of a potentiometric map prepared utilizing the groundwater elevations measured at the site; and,

(4) Recommendations for any changes to the groundwater monitoring system, or any necessary actions to be performed at the site to ensure compliance with the groundwater monitoring requirements.

2. Groundwater Detection Monitoring Requirements.

a. Groundwater detection monitoring is required at Class Two solid waste landfills. The detection monitoring program shall include at a minimum, monitoring for the constituents listed in Appendix III.

(1) The Department may require additional groundwater monitoring parameters for routine monitoring based on the chemical and physical nature of the waste stream received by the landfill.

(2) The Department may delete specific monitoring parameters for a Class Two solid waste landfill if it can be shown that the constituent(s) are not reasonably expected to be contained in or derived from the waste contained in the unit. The deletion of specific constituents will be based on the permittee's knowledge of each waste stream disposed of in the facility and the operational controls of the facility.

b. For Class Two solid waste landfills, the detection monitoring frequency for all constituents required by this subpart shall be at least semiannual during the active life of the facility (including closure) and annual during the post-closure period. At least one sample from each well (background and downgradient) shall be collected and analyzed during each sampling event.

c. For Class Two solid waste landfills, the Department may approve an appropriate alternate frequency for repeated sampling and analysis for the constituents listed in Appendix III during the active life (including closure) and the post-closure care period to ensure protection of human health and the environment. The alternative frequency during the active life (including closure)

shall be no less than the frequency specified in Section E.2.b. above. The alternative frequency shall be based on consideration of the following factors:

- (1) Lithology of the aquifer and unsaturated zone;
- (2) Hydraulic conductivity of the aquifer and unsaturated zone;
- (3) Groundwater flow rates;
- (4) Minimum distance between upgradient edge of the Class Two solid waste landfill footprint and downgradient monitoring well screen (minimum distance of travel); and
- (5) Resource value of the aquifer.

d. During semiannual groundwater sampling, the two sampling events shall be scheduled approximately six (6) months apart. The submittal of data for one of the sampling events shall meet annual report requirements outlined in E.1.h.. For the other semiannual sampling event, the analytical data only shall be submitted to the Department. In all cases, the groundwater analytical results shall be submitted to the Department within 60 days of sample collection. In cases where the Department has approved an alternate sampling frequency, the Department will approve an appropriate schedule for submittal of groundwater data.

e. If the permittee determines that groundwater concentrations are above the PQL but below the MCL for any constituent listed in Appendix III, at any monitoring well (unless the constituent is being addressed by Section E.3. below) the permittee shall:

- (1) Place a notice in the operating record showing which constituents have shown an exceedance above the PQL; and,
- (2) Provide a notification of the results to the Department in the next regularly scheduled report and provide a discussion on the cause of this result.

f. If the permittee determines that groundwater concentrations are above the MCL, for any constituent listed in Appendix III at any monitoring well, the permittee shall:

- (1) Notify the Department within 14 days of receiving the analytical results;
- (2) Resample the monitoring well(s) in question for the constituents(s) in question to determine the validity of the data within 30 days of receiving the analytical results, unless the Department approves an alternate frequency. If the permittee chooses not to resample, then the initial exceedance(s) of the MCL shall be considered valid;
- (3) Within 14 days of receiving the results of validation sampling required by Section E.2.f.(2) above, place a notice in the operating record and notify the Department of the results of the resampling;
- (4) If resampling does not validate that the results are above applicable levels, return to routine detection monitoring; or,
- (5) If resampling does validate the initial exceedance of the MCL, then establish an assessment monitoring program meeting the requirements of Section E.3. within 90 days of receiving the results of validation sampling required by Section E.2.f.(2), except as provided for in Section E.2.g. below.

g. The permittee may demonstrate that a source other than the Class Two landfill caused the contamination or that the concentration resulted from an error in sampling, analysis, or natural variation in groundwater quality. A report documenting this demonstration shall be placed in the operating record after being signed and stamped by a qualified professional and approved by the Department. If a successful demonstration is made and documented, the permittee may continue detection monitoring as specified in this Section. If, after 90 days of completing Section E.2.f.(2) above, a successful demonstration is not made, the permittee shall initiate an assessment monitoring program as required in Section E.3.

3. Assessment of Groundwater Impact.

a. Assessment monitoring is required whenever a release has been detected and validated, in accordance with Section E.2.f. above for any constituent listed in Appendix III, unless a successful demonstration has been made in accordance with Section E.2.g. above.

b. Within 90 days of validating an exceedance as outlined in E.2.f.(2), the permittee shall sample all groundwater monitoring wells identified as impacted for all constituents listed in Appendix V. Any additional constituents detected during this sampling shall be added to the assessment program.

c. The permittee shall establish a groundwater protection standard for each constituent detected in the groundwater. The groundwater protection standard shall be:

(a) For constituents for which a MCL has been promulgated under South Carolina R.61–58, State Primary Drinking Water Regulations, the MCL for that constituent;

(b) For constituents for which MCLs have not been promulgated, the drinking water risk-based number recognized by EPA Region IV; or,

(c) For constituents for which the background level is higher than the MCL identified under Section E.3.b.(3)(a) above or risk-based concentration identified under Section E.3.b.(3)(b) above, as applicable, the background concentration.

(d) For any parameter for which a groundwater protection standard cannot be established per E.3.c.(a), (b), or (c) above, the Department, using input from the permittee, will develop an appropriate groundwater protection standard. In establishing this groundwater protection standard, the Department may consider the following provided these criteria meet the intent of the South Carolina Water Classifications and Standards R.61–68:

(1) Multiple contaminants in the groundwater;

(2) Exposure threats to sensitive environmental receptors; and,

(3) Other site-specific exposure or potential exposure to groundwater.

d. The permittee shall submit to the Department for review and approval a groundwater quality assessment plan for characterizing the nature and extent of the release within 90 days of receiving the results of the sampling outlined in Section E.3.b. above. The groundwater quality assessment plan shall:

(a) Ensure that the nature and extent of the release is fully characterized by installing additional monitoring wells, as necessary;

(b) Install at least one additional monitoring well at the facility boundary in the direction of contaminant migration and sample this well in accordance with this section;

(c) In cases where contamination is present at the property boundary, take reasonable measures to gain access for offsite sampling;

(d) Notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off-site if indicated by sampling of wells in accordance with this section; and,

(e) Contain a detailed schedule for the implementation and completion of the provisions of the plan.

e. Upon completion of assessment activities outlined in this section, the permittee shall initiate an assessment of corrective measures as required by Section E.4.a. below within 90 days.

f. Based upon the outcome of the assessment outlined in this section, the Department may add additional monitoring wells, additional constituents, or additional sampling frequency to the routine detection monitoring program, required by Section E.2.above.

4. Groundwater Remediation.

a. Upon completion of the groundwater quality assessment, the permittee shall evaluate potential corrective actions to address groundwater quality. Based on the outcome of this evaluation, the permittee shall select a remedial action strategy and submit a remedial action plan to be approved by the Department. The remedial action plan shall contain a schedule for the initiation and completion of remedial activities.

b. The remedial action plan shall:

(1) Be protective of human health and the environment;

(2) Attain the groundwater protection standard as specified pursuant to Section E.3.b.(3) above;

(3) Control the source(s) of releases so as to reduce or eliminate, to the maximum extent practicable, further releases of constituents into the environment that may pose a threat to human health or the environment;

(4) Consider the long- and short-term effectiveness and protectiveness of the potential remedy(s), along with the degree of certainty that the remedy will prove successful based on consideration of the following:

(a) Magnitude of reduction of existing risks;

(b) Magnitude of residual risks in terms of likelihood of further releases due to waste remaining following implementation of a remedy;

(c) The type and degree of long-term management required, including monitoring, operation, and maintenance;

(d) Short-term risks that might be posed to the community, workers, or the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, and redispersion or containment;

(e) Time until full protection is achieved;

(f) Potential for exposure of humans and environmental receptors to remaining wastes, considering the potential threat to human health and the environment associated with excavation, transportation, redispersion, or containment;

(g) Long-term reliability of the engineering and institutional controls; and,

(h) Potential need for replacement of the remedy.

(5) Consider the effectiveness of the remedy in controlling the source to reduce further releases based on the extent to which containment practices will reduce further releases; and,

(6) Contain monitoring considerations to prove the effectiveness of the selected remedial action, which may be in addition to those constituents contained in the detection monitoring program.

c. The Department may determine that remediation of a release of a constituent from a Class Two landfill is not necessary if the permittee satisfactorily demonstrates to the Department that:

(1) The groundwater is additionally contaminated by substances that have originated from a source other than the Class Two solid waste landfill and those substances are present in concentrations such that cleanup of the release from the Class Two solid waste landfill would provide no significant reduction in risk to actual or potential receptors; or,

(2) The constituent(s) is present in groundwater that:

(a) Does not currently meet the definition of an underground source of drinking water per South Carolina Water Classifications and Standards R.61–68; and,

(b) Is not hydraulically connected with waters to which the constituents are migrating or are likely to migrate in a concentration(s) that would exceed the groundwater protection standards established under Section E.3.c. above; or,

(3) Remediation of the release(s) is technically impracticable; or,

(4) Remediation results in unacceptable cross-media impacts.

d. A determination by the Department pursuant to Section E.4.c. above shall not affect the authority of the Department to require the permittee to undertake source control measures or other measures that may be necessary to eliminate or minimize further releases to the groundwater, to prevent exposure to the groundwater, or to remediate the groundwater to concentrations that are technically practicable and significantly reduce threats to human health or the environment.

e. During the course of implementing the corrective action, the permittee may be required to take any interim measures necessary to ensure the protection of human health and the environment. Interim measures should, to the greatest extent practicable, be consistent with the objectives of and contribute to the performance of any remedy that may be required pursuant to this section. A permittee in determining whether interim measures are necessary shall consider the following factors:

- (1) Time required to develop and implement a final remedy;
- (2) Actual or potential exposure of nearby populations or environmental receptors to hazardous constituents;
- (3) Actual or potential contamination of drinking water supplies or sensitive ecosystems;
- (4) Further degradation of the groundwater that may occur if remedial action is not initiated expeditiously;
- (5) Weather conditions that may cause hazardous constituents to migrate or be released;
- (6) Risks of fire or explosion, or potential for exposure to hazardous constituents as a result of an accident or failure of a container or handling system; and,
- (7) Other situations that may pose threats to human health and the environment.

f. If the permittee determines that compliance with requirements of this section cannot be practically achieved with any currently available methods, the permittee shall:

- (1) Obtain certification of a qualified professional and approval by the Department, that compliance with requirements under Section E.4. cannot be practically achieved with any currently available methods;
- (2) Implement alternate measures to control exposure of humans or the environment to residual contamination, as necessary to protect human health and the environment; and,
- (3) Implement alternate measures for control of the sources of contamination, or for removal or decontamination of equipment, units, devices, or structures that are:
 - (a) Technically practicable; and,
 - (b) Consistent with the overall objective of the remedy.

g. Upon completion of the remedy, the permittee shall submit to the Department a certification signed by a qualified professional stating that the remedy has been completed in compliance with the requirements of Section E.4.

h. Upon the Department's approval of the certification required in Section E.4.g. above, the Class Two landfill shall return to detection monitoring as outlined in Section E.2. of this Part.

F. Closure and Post-Closure Care.

1. Closure. The termination of disposal operations at a Class Two landfill, whether the entire landfill site or a portion thereof, shall be in compliance with the following requirements.

a. Within one month following the last receipt of solid waste at a site or a part of the site, the application of final cover shall begin. A two foot thick final earth cover is required with at least a 3% but not greater than 5% surface slope, graded to promote positive drainage. The side slope cover shall not exceed three horizontal feet to one vertical foot, i.e., a 3:1 slope. Alternate final cover designs may be submitted for Department review and approval. Unless otherwise approved by the Department, the application of final cover shall be completed within six months of the last receipt of solid waste at the facility. The integrity of the final cover shall be maintained.

b. Testing for certification of cap closure by a South Carolina certified professional engineer shall be done at a rate of four thickness tests per acre as defined by best engineering and construction practices.

c. The storm water conveyance system for the landfill shall be designed to ensure that the system is capable of handling a 24-hour, 25-year storm event during the active life and post-closure period of the landfill.

d. The finished surface of the disposal area shall be seeded with native grasses or other suitable ground cover within 15 days of the completion of that portion of the landfill.

e. Within 15 days of closure of the entire landfill, the permittee shall post signs at the landfill that state the facility is no longer in operation. On-site landfills are exempt from this requirement.

f. Upon closure of the entire or a portion of the landfill and within 30 days of grading and seeding, pursuant to Section F.1.d. above, a professional engineer licensed in the State of South Carolina shall submit to the Department certification that the landfill has been properly closed in accordance with requirements outlined in this Part and the facility's permit. Upon receipt of

certification of closure, the Department will schedule an inspection of the facility. Upon issuance of the Department's final closure approval, the Department's permit for this facility shall be modified to incorporate post-closure activities.

g. Within 30 days of the Department's issuance of final closure approval, the owner shall:

(1) 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 title search - that will in perpetuity notify any potential purchaser of the property, that the land or a portion thereof, was used for the disposal of solid waste. This notation shall define the final boundaries of the waste disposal area including the latitude and longitude, and identify the type, location, and quantity of solid waste disposed of on the property; and,

(2) Submit to the Department:

(a) A plat showing the final boundaries of the waste disposal area of the closed landfill; and,

(b) A copy of the document in which the notation required by Section F.1.g.(1) above has been placed.

2. Post-closure Care Requirements.

a. Following closure of each Class Two landfill, the permittee shall conduct post-closure care. Post-closure care shall be conducted for a minimum of 20 years, except as provided under Subsection b.2.below, and consist of at least the following:

(1) Maintaining the integrity and effectiveness of any final cover, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, and preventing run-on and run-off from eroding or otherwise damaging the final cover. A 75% or greater vegetative ground cover with no substantial bare spots shall be established and maintained throughout the post-closure period; and,

(2) Monitoring the groundwater in accordance with the requirements of Section E of this Part and maintaining the groundwater monitoring system. Groundwater monitoring data shall be submitted to the Department during the post-closure care period within 60 days of sample collection.

b. The length of the post-closure care period may be:

(1) Increased by the Department if the Department determines that the lengthened period is necessary to protect human health and the environment or the facility has groundwater impacts remaining at the end of the post-closure period;

(2) Decreased by the Department if the permittee can provide technical rationale that the decreased post-closure care period is sufficient to protect human health and the environment.

c. The permittee of all Class Two landfills shall prepare a written post-closure plan that includes, at a minimum, the following information:

(1) A description of the monitoring and maintenance activities required in Item 2.a.. above for each Class Two landfill;

(2) Name, address, and telephone number of the person or office to contact about the facility during the post-closure period; and,

(3) A description of the planned uses of the property during the post-closure period. Post-closure use of the property shall not disturb the integrity of the final cover, or any other components of the containment system, or the function of the monitoring systems unless necessary to comply with the requirements of this regulation. The Department may approve any other disturbance of the containment system if the permittee demonstrates that disturbance of the final cover, or other component of the containment system, including any removal of waste, will not increase the potential threat to human health or the environment.

d. Prior to permit issuance, the permittee shall submit to the Department a post-closure plan for review and approval. The post-closure plan shall be updated if any changes occur at the facility which require a deviation from the approved post-closure plan.

e. Following completion of the post-closure care period for each Class Two landfill, the permittee shall submit to the Department certification, signed by a South Carolina registered professional engineer other than the design engineer, verifying that post-closure care has been completed in accordance with the post-closure plan.

G. Financial Assurance Criteria. (See Part I, Section E. of this regulation.)

H. Permit Application Requirements. Prior to the construction, operation, expansion or modification of a Class Two landfill, a permit shall be obtained from the Department.

1. Prior to submitting a permit application to the Department, the applicant shall satisfactorily complete the following:

a. Determination of Need. The applicant shall submit to the Department a request pursuant to Regulation 61–107.17 for determining need of a proposed landfill or landfill expansion, if applicable.

b. Consistency Determination. The applicant shall submit to the Department a request for a determination of consistency with items listed below.

(1) State and County/Region Solid Waste Management Plans. The permit applicant shall demonstrate consistency with the State Solid Waste Management Plan in effect at the time of the request for a determination of consistency. The permit applicant shall demonstrate consistency with the county/region plan in effect at the time of the request for a determination of consistency. Class Two landfills managing solid waste generated solely in the course of normal operation on property under the same ownership or control as the Class Two landfill are not required to demonstrate consistency with the State and host County/Region Solid Waste Management Plans;

(2) Local zoning and land-use ordinances. Documentation demonstrating consistency with local zoning and land-use plans, e.g., zoning map, land-use map, and applicable part of the zoning ordinance shall be submitted to the Department; and,

(3) All other applicable local ordinances. Supporting documentation to include a copy of the ordinance shall be submitted to the Department.

(4) Buffer Requirement. The applicant shall demonstrate that it meets the buffer requirement set forth in Part IV, Section B.1.a. of this Regulation at the time of submittal of the demonstration.

c. If the Department's final determination of need is terminated, pursuant to R.61–107.17, all other determinations under Section H.1.a. and b. above will also be void.

2. Administrative Review. Upon satisfactory completion of Section H.1. above, the applicant shall submit to the Department a complete permit application. The applicant shall submit to the Department three copies of the following documents:

a. A completed permit application on a form provided by the Department;

b. A cost estimate for hiring a third party to close the sum of all active areas of the landfill requiring a final cover at any time during the operating life when the extent and manner of its operation would make closure the most expensive, as indicated in the closure plan. This estimate shall be sufficient to ensure satisfactory closure and post-closure maintenance of the landfill and requires Department approval prior to the permittee establishing a financial assurance mechanism pursuant to Part I, Section E. of this regulation;

c. A Disclosure Statement pursuant to Part I, Section F.1;

d. Complete engineering plans, drawings and reports in accordance with Section H.4 below, that are stamped by a Professional Engineer duly licensed to practice in the State of South Carolina; and,

e. The names and addresses of the owners of real property as they appear on the county tax maps as contiguous landowners of the proposed permit area.

f. Tonnage Limit. The applicant shall submit to the Department a request for a determination of a maximum annual tonnage limit.

(1) Prior to the issuance of a permit for a new or expanded commercial Class Two landfill, the Department will approve a maximum annual tonnage limit based on the facility's design

capacity, operational capacity, the expected operational life, and the planning area as determined by R.61-107.17, SWM: Demonstration-of-Need; provided, however, that the maximum annual tonnage limit must not exceed the maximum yearly disposal rate pursuant to R. 61-107.17.

(2) Prior to issuance of a permit for a new or expanded noncommercial Class Two landfill, the Department will approve a maximum annual tonnage limit based on the facility's design capacity, operational capacity, and the expected operational life.

3. Public Notice. When the submittal is administratively complete, the Department will notify the applicant in writing. Within 15 days of receipt of notification from the Department, the applicant shall publish notice of the permit application pursuant to Part I, Section D.2. of this regulation, and submit an affidavit of publication of the public notice in the newspaper to the Department.

4. Technical Review. After determining that the permit application is administratively complete, the Department will conduct a Technical Review of the proposed project. The Department's technical review of the permit application will involve the following:

a. Engineering Drawings and Plans. All applications for new Class Two landfills and landfill expansions shall contain engineering drawings that set forth the proposed landfill location, property boundaries, adjacent land uses and construction details. All construction drawings shall be bound and rolled and shall contain the following:

(1) A vicinity plan or map that shows the area within one mile of the property boundaries of the landfill in terms of: the existing and proposed zoning and land uses within that area at the time of permit application; and, residences, public and private water supply wells, known aquifers, surface waters (with quality classifications), access roads, bridges, railroads, airports, historic sites, and other existing and proposed man-made or natural features relating to the facility. The plan shall be on a scale of not greater than 500 feet per inch, unless otherwise approved by the Department;

(2) A site plan on a scale of not greater than 200 feet per inch unless otherwise approved by the Department. This plan shall at a minimum identify the following:

(a) The landfill's property boundaries, as certified by an individual licensed to practice land surveying in the State of South Carolina; off-site and on-site utilities (such as, electric, gas, water, storm, and sanitary sewer systems), right-of-ways and easements; the names and addresses of abutting property owners; the location of soil borings, excavations, test pits, gas venting structures (if applicable), wells, piezometers, environmental and facility monitoring points and devices; benchmarks and permanent survey markers; on-site buildings and appurtenances, fences, gates, roads, parking areas, drainage culverts, and signs; the delineation of the total landfill area including planned staged development of the landfill's construction and operation, and the lateral limits of any previously filled areas; the location and identification of the sources of cover materials; and site topography with five foot minimum contour intervals; and, any other relevant information as necessary for proper operation. The site plan drawings shall show wetlands, property lines, existing wells, water bodies, residences, schools, day-care centers, churches, hospitals, publicly owned recreational park areas and any building on adjoining property;

(b) Location of surface water, dry runs, wetlands, the location of the 100-year floodplain boundaries, and other applicable details regarding the general topography of the landfill site and adjacent properties within one-fourth ($\frac{1}{4}$) mile of the disposal area;

(c) The area where unauthorized waste will be temporarily stored while it awaits removal for proper disposal; and,

(d) The area where recovered materials will be temporarily stored;

(3) Detailed plans of the landfill that clearly show in plan and cross-sectional views the following: the original, undeveloped site topography before excavation or placement of solid waste; the existing site topography, if different, including the location and approximate thickness and nature of any existing solid waste; plan view of the location of the seasonal high water table in relation to the bottom elevation of the proposed landfill; a cross sectional view of existing and final elevations, bottom elevation and deflected bottom elevation, and seasonal high

water table; geologic units; known and interpolated bedrock elevations; the proposed limits of excavation and waste placement; other devices as needed to divert or collect surface water run-on or run-off; a plan and cross section view of fill progression for the life of the landfill; the final elevations and grades of the landfill; groundwater monitoring system; and, the building locations and appurtenances;

(4) Detailed plans of the sedimentation ponds. These plans shall clearly show in plan and cross sectional views the following: the existing site topography, the seasonal high water table, pond bottom elevation, permanent pool elevation, first flush elevation, maximum elevation for sedimentation clean-out, emergency spillway 100-yr storm elevation, riser pipe, antiseep collars, outlet protection, emergency spillway, dewatering riser, trash/antivortex rack, and sedimentation pond gauge legend.

b. Engineering Report. The engineering report shall contain a comprehensive description of the existing site conditions and an analysis of the proposed landfill. All engineering reports shall be bound. This report shall include, but is not limited to, the following:

(1) A current 7.5 minute quadrant map (U.S. Geological Survey topographic map, including the legend and name of the quadrant) which shows contour intervals not exceeding five feet with the location, i.e. footprint, of the proposed landfill indicated;

(2) Source and description of cover material to be used. If soil excavated during landfill construction is to be used as cover material, indicate the location of stockpiles during landfill operation;

(3) Frequency of covering;

(4) Depth of disposal area;

(5) Final contours of the finished landfill areas;

(6) Stabilization Plan. This plan shall:

(a) Identify and locate existing vegetation to be retained and proposed vegetation to be used for cover, soil stockpiles, and other purposes; and,

(b) Include a schedule for seeding or implementing other appropriate erosion control measures. Appropriate measures shall be taken to stabilize stockpiled soils within 30 days;

(7) Operating Plan. A general operating plan for the proposed landfill shall include the expected life of the landfill, the maximum volume of solid waste the landfill will be capable of receiving over the operational life of the landfill, and the maximum rate at which the landfill will receive that waste during the designed life of the landfill. This plan shall at a minimum address the following:

(a) Screening procedures defining the methods for inspecting and measuring incoming waste;

(b) Procedures for control of storm water drainage;

(c) Procedures for prevention of fires;

(d) Procedures for control of vectors;

(e) Procedures for odor control;

(f) Procedures for dust control;

(g) Procedures for ensuring that waste does not escape the landfill boundaries during flooding;

(h) Hours of operation;

(i) Procedures for excavating, earth moving, spreading, compacting and covering operations, including a list of equipment to be at the landfill for daily operation. This submittal shall also include:

i. A description of the site's preparation and fill progression for the life of the site in terms of method, depth, location and sequence;

ii. A method of elevation control for the operator including the location and description of the permanent surveying benchmark at the site; and,

iii. A fill progression discussion describing the placement and compacted thickness of cover;

(j) Description of stormwater diversion in areas of constructed cells that have not had waste placement;

(k) A contingency plan describing landfill operation in the event of fire, explosion, or other event that would threaten human health and safety of the environment, and equipment failure. Reserve equipment shall be available within 24 hours of equipment breakdown. The contingency plan shall also contain procedures for the proper removal and disposal of unauthorized waste; and,

(l) A list of items that are not listed in Appendix I but are similar in nature to Appendix I of this regulation that the permittee wishes to place in the landfill, the anticipated quantity and source of the waste. Upon Department review, items other than those listed in Appendix I, that are approved for landfilling, shall be listed on the permit for that facility. After issuance of the permit, other items may be approved for disposal at the landfill by modification of the permit by the Department. Only items that will cause no environmental harm as determined by the Department shall be approved for disposal;

(8) A groundwater monitoring and corrective action plan pursuant to Sections D. and E. of this Part;

(9) Detailed closure plan in accordance with Section I. of this Part, to include a description of the final cover and the methods and procedures to be used to install the cover. This plan shall also include the following: an estimate of the sum of all active areas of the landfill requiring a final cover at any time during the operating life of the facility; an estimate of the maximum inventory of wastes ever on site over the active life of the facility; a schedule for completing all activities; and, a site plan of the landfill showing the proposed final elevations. The plan may be amended at any time during the active life of the facility with Department approval. The plan shall be amended whenever changes in operating plans or facility design affect the closure plan, or whenever there is a change in the expected year of closure;

(10) Detailed post-closure plan in accordance with Section J. of this Part. This plan may address, but not be limited to, groundwater monitoring, landfill gas monitoring and maintenance of the integrity and effectiveness of the final cover including future use of the site.

c. South Carolina Coastal Zone Management Plan. The proposed landfill project shall be consistent with the South Carolina Coastal Zone Management Plan, if the landfill is located in the coastal zone as defined in accordance with the Coastal Zone Management Act.

I. Permit Conditions and Review.

1. Application forms for permits shall be provided by the Department and shall be submitted with sufficient detail to support a judgment that operation of the disposal system will not violate the laws and regulations of the State of South Carolina. The application shall be signed by the permittee of the landfill. The approved application and associated plans and drawings shall be an enforceable part of the permit. Permits shall be effective for the design and operational life of the facility.

2. Prior to issuance of permits for major modifications, as determined by the Department, and for new construction, the Department will make the draft permit available for public review and comment pursuant to Part I, Section D of this regulation.

3. The Department shall review the permit at least once every five years. Upon notification from the Department, the landfill shall submit to the Department a topographic survey map of the site that shows the contours at the beginning and the end of the period since the last permit review.

4. If, upon review, the Department finds that material or substantial violations of the permit demonstrate the permittee's disregard for, or inability to comply with, applicable laws, regulations, or requirements, and would make continuation of the permit not in the best interest of human health and safety or the environment, the Department may, after a hearing, amend or revoke the permit as appropriate and necessary. When a permit is reviewed, the Department shall include additional limitations, standards, or conditions when the technical limitations, standards, or regulations on which the original permit was based have been changed by statute or amended by regulation.

5. The Department may amend or attach conditions to a permit when:

a. There is a significant change, as determined by the Department, in the manner and scope of operation which may require new or additional permit conditions or safeguards to protect human health and safety and the environment;

b. The investigation has shown the need for additional equipment, construction, procedures, and testing to ensure the protection of human health and safety and the environment; and,

c. The amendment is necessary to meet changes in applicable regulatory requirements.

6. Failure to begin construction within twelve (12) months of the issuance of the Department permit shall render that permit invalid unless granted a variance in writing by the Department.

J. Transfer of Ownership. The Department may, upon written request, transfer a permit to a new permittee where no other change in the permit is necessary pursuant to Part I, F.2.b. of this regulation.

HISTORY: Added by State Register Volume 32, Issue No. 5, eff May 23, 2008. Amended by SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

Part V. Class Three Landfills.

(Subsections A through F of this Part are codified to coincide with those Subparts in 40CFR258.)

Subpart A. General Provisions.

258.1. Purpose, Scope, and Applicability.

a. Part V. establishes minimum criteria for landfills that accept municipal solid waste, industrial solid waste, sewage sludge, nonhazardous municipal solid waste incinerator ash and other nonhazardous waste. Hereinafter, these landfills will be referred to as Class Three landfills. Class Three landfills shall adhere to their approved Special Waste Analysis and Implementation Plan (SWAIP), pursuant to S.C. Code Section 44-96-390.

b. This Part applies to owners and operators of new and existing Class Three landfills, except as otherwise specifically provided in this regulation.

c. No Class Three landfill shall be operated in the State of South Carolina without first obtaining a written permit from the South Carolina Department of Environmental Services.

d. Class Three landfills failing to satisfy the criteria in this Part are considered open dumps for purposes of State solid waste management planning under RCRA.

e. Class Three landfills failing to satisfy the criteria in this Part constitute open dumps, which are prohibited under section 4005 of RCRA.

f. Class Three landfills containing sewage sludge and failing to satisfy the criteria in this Part violate sections 309 and 405(e) of the Clean Water Act.

g. Class Three landfills permitted prior to the effective date of this regulation to accept only industrial waste that test less than 30 times the MCL shall be exempted from the design criteria as outlined in Subpart D of this Part.

258.2. Definitions. See Part I., Section B. for definitions that apply to this regulation.

258.3. Considerations of other Federal Laws. The permittee of a Class Three landfill shall comply with any other applicable Federal rules, laws, regulations, or other requirements.

258.4. Research, Development, and Demonstration Permits.

a. When the leachate collection system is designed and constructed to maintain less than a 1 ft. depth of leachate on the liner, the Department may issue a research, development, and demonstration (RD and D) permit pursuant to R.61-107.10 for a Class Three Landfill for the use of innovative and new methods that vary from either or both of the following criteria:

(1) The run-on control systems in Section 258.26.a.(1); and,

(2) The liquids restrictions in Section 258.28.a., and Subpart H. Section 7.c. for specific permit requirements for leachate recirculation.

b. The Department may issue a research, development, and demonstration permit pursuant to R.61-107.10 for a Class Three Landfill to utilize innovative and new methods that vary from the

final cover criteria of Section 258.60.a.(1), a.(2), and b.(1) when it can be demonstrated that the infiltration of liquid through the alternative cover system will not cause contamination of groundwater or surface water, or cause leachate depth on the liner to exceed 1 foot.

c. Any permit issued under this section shall include such terms and conditions at least as protective as the criteria for Class Three landfills to assure protection of human health and the environment. Such permits shall:

(1) Provide for the construction and operation of such facilities as necessary, for not longer than two years, unless renewed in writing by the Department;

(2) Provide that the landfill receive only those types and quantities of municipal solid waste and nonhazardous wastes that the Department deems appropriate for the purposes of determining the efficacy and performance capabilities of the technology or process;

(3) Include such requirements as necessary to protect human health and the environment, including such requirements as necessary for testing and providing information to the Department with respect to the operation of the facility;

(4) Require the permittee of a Class Three landfill permitted under this section to submit an annual report to the Department showing whether and to what extent the site is progressing in attaining project goals. The report will also include a summary of all monitoring and testing results, as well as any other operating information specified by the Department in the permit; and,

(5) Require compliance with all criteria in this part, except as permitted under this section.

d. The Department may order an immediate termination of all operations at the facility allowed under this section or other corrective measures at any time the Department determines that the overall goals of the project are not being attained, including protection of human health or the environment.

e. Any permit issued under this section shall not exceed two years and each renewal of a permit shall not exceed two years.

(1) The total term for a permit for a project including renewals may not exceed six years; and,

(2) When a permit renewal is requested, the applicant shall provide the Department with a detailed assessment of the project showing the status with respect to achieving project goals, a list of problems and status with respect to problem resolutions, and any other requirements that the Department determines necessary for permit renewal.

f. Upon expiration of the RD and D permit, if the innovative/new method is proved to be a viable method, the facility's existing landfill permit issued under the authority of this regulation may be amended to include the innovative/new method.

Subpart B. Location Restrictions.

258.10. Airport Safety.

a. Owners/operators of Class Three landfills that are located within 10,000 feet of any airport runway end used by turbojet aircraft or within 5,000 feet of any airport runway end used by only piston-type aircraft shall demonstrate that the units are designed and operated so that the Class Three landfill does not pose a bird hazard to aircraft.

b. Owners/operators proposing to site new Class Three Landfills and lateral expansions located within a five mile radius of any airport runway end used by turbojet or piston-type aircraft shall notify the affected airport and the Federal Aviation Administration (FAA).

c. The permittee shall place the demonstration required in a. above in the operating record and submit a copy to the Department.

d. See Part I, Section B. for definitions.

e. A new Class Three landfill that receives putrescible waste shall not be constructed or established after the effective date of this regulation within six (6) miles of a public airport that has received federal grant funds under 49 U.S.C. 47101 and is primarily served by general aviation aircraft and regularly scheduled flights of aircraft designed for sixty (60) passengers or more. The Federal Aviation Administration has issued guidance which includes criteria for determining when an airport is covered and has identified those airports meeting the criteria. Anyone considering

construction or establishment of a new Class Three landfill within six (6) miles of a public airport should contact the Federal Aviation Administration. This requirement does not apply to:

- (1) A new Class Three landfill if the S.C. Division of Aeronautics requests that the Administrator of the Federal Aviation Administration exempt the landfill from the application of this Item, and the Federal Aviation Administration Administrator determines that such exemption would have no adverse impact on aviation safety; or,
- (2) Expansions, either vertical or lateral, of existing Class Three landfills constructed before the effective date of this regulation.

258.11. Floodplains.

a. Owners/operators of Class Three Landfills located in 100-year floodplains shall demonstrate that engineering measures have been incorporated into the landfill design to ensure the landfill will: not restrict the flow of the 100-year flood, reduce the temporary water storage capacity of the floodplain, minimize potential for floodwaters coming into contact with waste, or result in the washout of solid waste so as to pose a hazard to human health or the environment. The permittee shall place the demonstration in the operating record and submit a copy to the Department.

b. See Part I., Section B. for definitions that apply to this regulation.

258.12. Wetlands. All landfills shall be in compliance with the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and the Department's requirements concerning wetlands.

258.13. Fault Areas.

a. Class Three landfills shall not be located within 200 feet of a fault that has had displacement in Holocene time unless the permittee demonstrates to the Department that an alternative setback distance of less than 200 feet will prevent damage to the structural integrity of the Class Three landfill and will be protective of human health and the environment.

b. See Part I., Section B. for definitions that apply to this regulation.

258.14. Seismic Impact Zones.

a. Class Three landfills shall not be located in seismic impact zones, unless the permittee demonstrates to the Department that all containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site.

b. Definitions. See Part I., Section B. for definitions that apply to this regulation.

258.15. Unstable Areas.

a. Owners/operators of Class Three landfills located in an unstable area shall demonstrate that engineering measures have been incorporated into the landfill's design to ensure that the integrity of the structural components of the Class Three landfill will not be disrupted. The permittee shall place the demonstration in the operating record and notify the Department that it has been placed in the operating record. The permittee shall consider the following factors, at a minimum, when determining whether an area is unstable:

- (1) On-site or local soil conditions that may result in significant differential settling;
- (2) On-site or local geologic or geomorphologic features; and,
- (3) On-site or man-made features or events (both surface and subsurface).

b. See Part I., Section B. for definitions that apply to this regulation.

258.16. Reserved.

258.17. Hydrogeologic Considerations.

a. Class Three landfills shall be located in areas that can be demonstrated to have the characteristics listed below (258.17.a.(1), a.(2), a.(3), and a.(4)). The inability of a site to meet full compliance with these criteria may not necessarily make the site unsuitable, but the applicant has the burden to demonstrate to the satisfaction of the Department why variance from the criteria will not compromise protection to human health and the environment. If Department review finds the demonstration to be inadequate, the application may be denied. Upon notification from the Department that the site meets the requirements of this section, the applicant may submit a complete application to the Department. This approval shall not be valid after a period of twelve (12) months of the date of

issuance if the complete application has not been submitted, unless granted a variance by the Department.

(1) The site shall not be located in an area where the hydrogeologic conditions allow the groundwater to migrate from shallow geologic units that have little potential as an underground source of drinking water, into deeper units. At the disposal area, any release to the uppermost aquifer would remain in the uppermost aquifer until discharge into the perennial stream nearest to the disposal area. The potentiometric head in the shallow portion of the uppermost aquifer shall be equal to or lower than the potentiometric head in the deeper portion of the uppermost aquifer (i.e., a lateral or an upward hydraulic gradient shall exist).

(2) The estimated deflected (or settled) bottom elevation of the landfill base grade shall be a minimum of three feet above the seasonal high water table elevation as it exists prior to the construction of the disposal area. The seasonal high water table shall be determined by interpretation of a minimum of 12 months data obtained from a representative number of monitoring wells approved by the Department. In cases where there is insufficient information to support the seasonal high water table elevation determination, additional separation may be required by the Department.

(3) A minimum 10 foot vertical separation of naturally occurring or engineered material shall be maintained between the base of the constructed liner and bedrock; provided, however, the nature of the material and sufficient separation exists to provide for installation and operation of an effective groundwater monitoring system. The nature of the material comprising this interval is subject to Department approval.

(4) The landfill shall not be located over an area where a stratum of limestone exhibiting secondary permeability with an average thickness of greater than five feet lies within 50 feet of the base of the landfill.

b. Class Three landfills are prohibited in areas where the permittee cannot demonstrate to the satisfaction of the Department that:

(1) The Class Three landfill is not located in a manner that would result in the destruction of a perennial stream, within 200 feet of a perennial stream, within that portion of a drainage basin included in a 2500 foot radius on the upstream side of a public drinking water supply intake, and within that portion of a drainage basin which is within 1000 feet of a lake, pond, or reservoir used as a source of public drinking water supply; and,

(2) The hydrogeologic properties of the site can be adequately characterized. The characterization shall include, but not be limited to, a detailed description of the geologic units below the site (including mineralogy, sedimentary structures, thickness, continuity, and structure), the hydraulic properties of each geologic unit (including secondary porosity and a discussion of variations noted across the site), hydraulic gradient, hydraulic conductivity, and direction and rate of groundwater flow within the uppermost aquifer system and all interconnected aquifers and confining units using a groundwater flow net. In addition, the relationship between the units below the site to locally and regionally recognized geologic and hydrogeologic units shall be described.

c. Class Three landfills shall not be located over Class GA groundwater or over the recharge area for Class GA groundwater as designated by the Department, over a sole source aquifer, or over the recharge area for a sole source aquifer as designated by the Department.

d. All Class Three landfills shall demonstrate compliance with the groundwater monitoring requirements pursuant to Subpart E.

258.18. Buffer Zones. Class Three landfills shall meet the buffer zone requirements outlined below:

a. The boundary of the fill area shall not be located within 1,000 feet of any residence, day-care center, church, school, hospital or publicly owned recreational park area unless such features are included in the site design for a planned end use or otherwise approved by the Department. The Department will determine whether the proposed landfill or landfill expansion meets this requirement prior to publication of the Notice of Intent to File a Permit Application pursuant to Part I, Section D.1 of this Regulation;

b. The boundary of the fill area shall not be located within 200 feet of any property line not under control of the permittee. An exemption may be issued by the Department upon receipt of written approval from adjacent property owners;

c. The boundary of the fill area shall not be located within 200 feet of any surface water that holds visible water for greater than six consecutive months, excluding ditches, sediment ponds, and other operational features on the site;

d. The boundary of the fill area shall not be located within the distances designated below from any well used as a source of water for human consumption, that is in a hydrologic unit potentially affected by the landfill. Exemptions may be granted if the applicant can demonstrate to the satisfaction of the Department that the hydrologic conditions below the landfill provide protection to the aquifer in use.

(1) The boundary of the fill area shall not be located any closer than 500 feet from a well hydraulically upgradient of the landfill.

(2) The boundary of the fill area shall not be located any closer than 750 feet from a well hydraulically sidegradient of the landfill.

(3) The boundary of the fill area shall not be located any closer than 1000 feet from a well hydraulically downgradient of the landfill.

e. Waste material shall not be placed on or within any property rights-of-way or 50 feet of underground or above ground utility equipment or structures, i.e., water lines, sewer lines, storm drains, telephone lines, electric lines, natural gas lines, etc., without the written approval of the impacted utility.

Subpart C. Operating Criteria.

258.20. Procedures for Excluding the Receipt of Hazardous Waste and Special Waste.

a. Owners/operators of all Class Three landfills shall implement a program at the facility for detecting and preventing the disposal of regulated hazardous wastes as defined in the South Carolina Hazardous Waste Management Regulations R.61-79.261 and polychlorinated biphenyls (PCB) wastes as defined in Toxic Substances Control Act (TSCA), Part 761. This program shall be a part of the Special Waste Analysis and Implementation Plan (SWAIP) and shall include, at a minimum:

(1) Random daily inspections of no less than 10% of incoming loads unless the permittee takes other steps as outlined in the SWAIP to ensure that incoming loads do not contain regulated hazardous wastes, PCB wastes, or wastes not specifically allowed by the permit. Bulk PCB wastes may be allowed for disposal in a Class Three landfill based on a case-by-case determination by the Department;

(2) Records of unacceptable waste to include quantities and descriptions of waste, generator information, and how/where waste was properly disposed;

(3) Training of facility personnel to recognize regulated hazardous waste and PCB wastes; and,

(4) Notification of the Department within 72 hours of facility personnel becoming aware that a regulated hazardous waste or PCB waste may have been disposed of at the facility.

b. Definitions. See Part I., Section B. for definitions that apply to this regulation.

c. The owners/operators of all Class Three landfills shall implement a program at the facility for regulating the receipt of special wastes as described in SC Code Section 44-96-390.

258.21. Cover Material Requirements.

a. Except as provided in paragraph b. below, the owners/operators of all Class Three landfills shall cover solid waste with six (6) inches of earthen material at the end of each operating day, or at more frequent intervals if necessary, to control vectors, fires, odors, blowing litter, and scavenging. Special waste may require more frequent or additional cover.

b. Alternative materials of an alternative thickness (other than at least six (6) inches of earthen material) may be approved by the Department on a case-by-case basis if the permittee demonstrates that the alternative material and thickness control vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment.

c. The Class Three landfill shall have an adequate quantity of acceptable earth (or approved alternate) cover for routine operations. If the material does not originate on-site, the permit application shall indicate the calculated volume of material needed for cover, provide assurances that off-site quantities of cover material are available, the location of any earth stockpiles, and any

provisions for saving topsoil for use as final cover. The earth cover material shall be easily workable and compactable, shall be free of large objects that would hinder compaction, and shall not contain organic matter conducive to the harborage and/or breeding of vectors or nuisance animals.

d. The Department may grant, with prior notice from the permittee, a temporary waiver not to exceed seven days from the requirements of paragraphs a. and b. above for emergency situations.

258.22. Disease Vector Control.

a. Owners/operators of all Class Three landfills shall prevent or control on-site populations of vectors using techniques appropriate for the protection of human health and the environment.

b. Definitions. See Part I., Section B. for definitions that apply to this regulation.

258.23. Explosive Gases Control.

a. Owners/operators of all Class Three landfills shall ensure that:

(1) The concentration of methane gas generated by the facility does not exceed 25% of the lower explosive limit for methane in facility structures (excluding gas control or recovery system components); and,

(2) The concentration of methane gas does not exceed the lower explosive limit for methane at the facility property boundary.

b. Owners/operators of all Class Three landfills shall implement a routine methane monitoring program to ensure that the standards in paragraph a. above are met.

(1) The type and frequency of monitoring shall be determined based on the following factors:

(a) Soil conditions;

(b) The hydrogeologic conditions surrounding the facility;

(c) The hydraulic conditions surrounding the facility; and,

(d) The location of facility structures and property boundaries.

(2) The minimum frequency of monitoring shall be quarterly.

c. If methane gas levels exceeding the limits specified in Section 258.23.a. above are detected, the permittee shall:

(1) Immediately take all necessary steps to ensure protection of human health and notify the Department;

(2) Within seven days of detection, place in the operating record and submit to the Department a copy of the methane gas levels detected and a description of the steps taken to protect human health; and,

(3) Within 30 days of detection, submit a methane remediation plan and construction details, signed and stamped by a South Carolina Licensed Professional Engineer, to the Department for approval; and,

(4) Within 30 days of plan approval, implement the Department approved remediation plan for the methane gas releases, place a copy of the plan in the operating record, and notify the Department that the plan has been implemented. The plan shall describe the nature and extent of the problem, the proposed remedy, and contain a schedule for compliance.

d. Definitions. See Part I., Section B. for definitions that apply to this regulation.

258.24. Air Criteria.

a. Owners/operators of all Class Three landfills shall ensure that the landfills do not violate any applicable requirements developed in a State Implementation Plan (SIP) approved or promulgated by the Department pursuant to Section 110 or Section 111 of the Clean Air Act, as amended.

b. Open burning of solid waste, except for the infrequent burning of agricultural wastes, silvicultural wastes, landclearing debris, diseased trees, or debris from emergency clean-up operations, all of which require prior Department approval, is prohibited at all Class Three landfills.

258.25. Access Requirements.

a. Owners/operators of all Class Three landfills shall control public access and prevent unauthorized vehicular traffic and illegal dumping of wastes by using artificial barriers, natural barriers, or both, as appropriate to protect human health and the environment.

b. The landfill shall be adjacent to or have direct access to roads that are of all-weather construction and capable of withstanding anticipated load limits.

c. Salvaging and scavenging shall not be allowed at the working face of a Class Three landfill at any time.

258.26. Run-on/run-off Control Systems.

a. Owners/operators of all Class Three landfills shall design, construct, and maintain:

(1) A run-on control system to prevent flow onto the active portion of the landfill during the peak discharge from a 25-year storm; and,

(2) A run-off control system from the active portion of the landfill to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

b. Run-off from the active portion of the landfill shall be handled in accordance with 258.27.a. below.

258.27. Surface Water Requirements.

a. Class Three landfills shall not:

(1) Cause a discharge of pollutants into waters of the United States, including wetlands, that violates any requirements of the Clean Water Act, including, but not limited to, Section 402 of the National Pollutant Discharge Elimination System (NPDES); and,

(2) Cause the discharge of a nonpoint source of pollution to waters of the United States, including wetlands, that violates any requirement of an area-wide or State-wide water quality management plan that has been approved in Section 208 or 319 of the Clean Water Act, as amended.

b. The permittee shall obtain an appropriate permit from the Department prior to the discharge of any storm waters to surface waters.

258.28. Liquids Restrictions.

a. Bulk or noncontainerized liquid waste may not be placed in Class Three landfills unless:

(1) The waste is household waste; or,

(2) The landfill has a Department Research, Development, and Demonstration Permit as outlined in Section 258.4 of this regulation.

b. Containers holding liquid waste may not be placed in a Class Three landfill unless:

(1) The container is a small container similar in size to that normally found in household waste;

(2) The container is designed to hold liquids for use other than storage; or,

(3) The waste is household waste.

c. For definitions, see Part I, Section B.

258.29. Record Keeping Requirements.

a. The permittee of a Class Three landfill shall record and retain near the facility in an operating record or in an alternative location approved by the Department for a period of no less than three years the following information as it becomes available:

(1) Any location restriction demonstration required in Subpart B of this Part;

(2) Inspection records, training procedures, and notification procedures required in Section 258.20. of Subpart C;

(3) Gas monitoring results and any remediation plans required by Section 258.23. of Subpart C;

(4) Any Class Three landfill design documentation for placement of leachate or gas condensate in the landfill as required in Section 258.28.a.(2) above;

(5) Any demonstration, certification, finding, monitoring, testing, or analytical data required by Subpart E;

(6) Closure and post-closure care plans, updates to the closure and post-closure care plans, and any monitoring, testing, or analytical data as required by Sections 258.60. and 258.61. of this Part;

(7) Any cost estimates and financial assurance documentation required by Part I., Section E. of this regulation; and,

(8) The results of any environmental monitoring or testing performed in accordance with this regulation or the operating permit for the facility.

b. All information contained in the operating record shall be furnished upon request to the Department or be made available at all reasonable times for inspection by the Department.

c. The permittee of a Class Three landfill shall record in an operating record, information concerning the source or type (e.g. residential route, commercial, industrial, transfer station identity, special); weight (tons); county and State of origin of each load of waste delivered to the facility. A summary of this information shall be submitted to the Department no later than September 1, of each year, for the previous fiscal year, on a form approved by the Department.

d. The Department can set alternative schedules for record keeping and notification requirements as specified in Sections 258.29.a. and b. above, except for the notification requirements in Sections 258.10.b. and 258.55.i.(1)(d).

258.30. Scale Installation. Each permittee of a Class Three landfill shall install and/or maintain scales capable of accurately determining the weight of incoming waste streams.

258.31. Equipment. The following equipment shall be required to ensure adequate operation of the Class Three landfill:

a. Equipment or adequate contractual arrangements for equipment sufficient for excavating, earth moving, spreading, dust suppression, compacting and covering operations;

b. Sufficient reserve equipment, or arrangements to provide alternate equipment within 24 hours following equipment breakdown; and,

c. Equipment to extinguish fires or arrangements to provide for fire protection.

258.32. Supervision and Inspection.

a. Supervision of the operation of the Class Three landfill shall be the responsibility of a qualified individual who has experience in the operation of a Class Three Landfill, and has completed operator training courses and is certified pursuant to R.61-107.14.

b. Routine inspection and evaluation of landfill operations will be made by a representative of the Department. A notice of any deficiencies, together with any recommendations for their correction, will be provided to the owner or local government responsible for the operation of the landfill.

258.33. Leachate Handling Agreement. Either a legal document (contract, local permit, etc.) certifying acceptance of leachate by the operator of a wastewater treatment facility for the discharge of leachate to that facility, or a state pollutant discharge elimination system permit shall be obtained prior to initial receipt of waste at the facility.

258.34. Leachate Control. The permittee of the Class Three landfill shall ensure that the leachate head above the liner system does not exceed one (1) foot, except for brief periods not to exceed one (1) week, due to circumstances beyond the immediate control of the permittee.

258.35. Testing of Municipal Solid Waste Incinerator Ash.

a. Ash residue disposed at a Class Three landfill shall be sampled and analyzed according to the current Environmental Protection Agency (EPA) acceptable methodology for determining the hazardous nature of the ash.

b. The required analysis of all ash shall be performed in accordance with the conditions of the solid waste incinerator permit where the ash is generated, and the Class Three landfill where the ash is disposed.

c. Prior to disposal, ash from each facility generating ash shall be tested, at a minimum semi-annually and when any changes occur to the waste streams being incinerated, to determine the hazardous or non-hazardous nature of the ash stream.

d. No ash determined to be hazardous waste shall be disposed at a Class Three landfill.

e. Records of all ash testing shall be maintained in the operating record of the Class Three landfill.

258.36. Sign Requirements. Signs shall be posted and maintained at the main entrance that:

a. Identify the owner, operator, or a contact person and telephone number in case of emergencies and the normal hours during which the landfill is open to receive waste;

- b. State the types of waste that the landfill is permitted to receive; and,
- c. Identify the valid SCDES Facility I.D. Number for the facility.

258.37. Litter Control. Wind borne waste shall be controlled at the Class Three landfill. The entire facility shall be policed as necessary to remove any accumulations of blown litter.

Subpart D. Design Criteria for Class Three Landfills.

258.40. Design Criteria.

- a. Class Three landfills shall be constructed:

- (1) In accordance with a design approved by the Department. The design shall ensure that the maximum contaminant level (MCL) as specified in the South Carolina State Primary Drinking Water Standards, R.61-68 will not be exceeded in the uppermost aquifer at the relevant point of compliance, as specified by the Department in Section 258.40.i. below; or,

- (2) With a composite liner, as defined in Item b. below of this section and a leachate collection system that is designed and constructed to maintain less than a one (1) foot depth of leachate over the liner, except in sumps.

- (3) Monofills that accept coal combustion byproducts that test greater than ten (>10) times the maximum contaminant level (MCL), may be constructed with a clay liner system consisting of a minimum of a two (2) foot layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-7} cm/sec, and an appropriate leachate collection system. These facilities shall comply with all other requirements for a Class III landfill.

- b. Liner. A composite liner system shall consist of two components: the upper component shall consist of a minimum 30-mil flexible membrane liner (FML); and, the lower component shall consist of at least a two foot layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-7} cm/sec. FML components consisting of High Density Polyethylene (HDPE) shall be at least 60-mil thick. The FML component shall be installed in direct and uniform contact with the compacted soil component.

- c. The leachate collection and removal system shall be designed and built to operate without clogging during the operational life of the site and post-closure maintenance period. The system shall be designed to allow for routine maintenance and cleaning of the system.

- d. Filter layers shall be designed to prevent the migration of fine soil particles into a coarser grained material, and allow water or gases to freely enter a drainage medium (pipe or drainage blanket) without clogging.

- e. The total thickness of the drainage and protective layers above the liner material shall be a minimum of two feet thick, and shall be composed of material with a minimum hydraulic conductivity of 1×10^{-4} cm/sec.

- f. All material used in the leachate collection and removal system of the landfill shall be designed to ensure that the hydraulic leachate head on the liner system does not exceed one foot as a result of a 24-hour, 25-year storm event during the active life and post-closure care period of the landfill.

- g. A foundation analysis shall be performed to determine the structural integrity of the subgrade to support the horizontal and vertical stresses and overlying facility components.

- (1) The constructed landfill subgrade material shall consist of on-site soils or select fill with minimal organic material, as approved by the Department.

- (2) The landfill subgrade shall be graded in accordance with the requirements of the approved engineering plans, reports and specifications. The material shall be sufficiently dry and structurally sound to ensure that the first lift and all succeeding lifts of soil placed over the landfill subgrade can adequately be compacted to the design requirements.

- h. When approving a design that complies with the requirements of this Part, the Department shall consider at least the following factors:

- (1) The hydrogeologic characteristics of the facility and surrounding land;
 - (2) The climatic factors of the area; and,
 - (3) The volume and physical and chemical characteristics of the leachate.

i. The relevant point of compliance specified by the Department shall be no more than 150 feet from the waste management unit boundary and shall be located on land owned by the owner of the Class Three landfill. In determining the relevant point of compliance, the Department shall consider at least the following factors:

- (1) The hydrogeologic characteristics of the facility and surrounding land;
- (2) The volume and physical and chemical characteristics of the leachate;
- (3) The quantity, quality, and direction of flow of groundwater;
- (4) The proximity and withdrawal rate of the groundwater users;
- (5) The availability of alternative drinking water supplies;
- (6) The existing quality of the groundwater, including other sources of contamination and their cumulative impacts on the groundwater and whether groundwater is currently used or reasonably expected to be used for drinking water;
- (7) Public health, safety, and welfare effects; and,
- (8) Practicable capability of the permittee.

j. One permanent survey benchmark of known elevation measured from a U.S. Geological Survey benchmark shall be established and maintained at the site. This benchmark shall be the reference point for establishing horizontal and vertical elevation control.

k. A minimum separation of three feet shall be maintained between the base of the constructed liner system and the high water table. Settlement of the landfill base grade shall be factored into the minimum separation requirement.

l. The soil component of the liner system shall conform with the following:

- (1) The soil component of the liner system shall be placed on a slope of no less than 2% to promote positive drainage across the liner surface and at a maximum slope not greater than 33% to facilitate construction; and,
- (2) Compaction shall be performed by properly controlling the moisture content, lift thickness and other necessary details to obtain satisfactory results.

m. The flexible membrane liner material shall demonstrate a chemical and physical resistance to waste placement or leachate generated by the landfill. Documentation shall be submitted to ensure chemical compatibility of the geomembrane liner material chosen, or in absence of the appropriate documentation, chemical compatibility testing shall be performed using a test method acceptable to the Department. Flexible membrane liners shall be installed in accordance with the requirements of the approved engineering plans, report, specifications and manufacturer's recommendations.

n. All storm water ditches should have a minimum slope of 0.5% or a minimum permissible non-silting velocity of two feet per second. When it is not possible to achieve minimum slopes and/or velocities, alternative system design and maintenance, which ensures proper run-on and run-off control, may be approved by the Department.

o. For landfill expansions adjacent to existing Class Three landfills, the Department may approve encroachment upon the existing landfill's side slopes only if a leachate barrier system is designed and constructed to eliminate leachate migration into the existing landfill. The expansion area shall be constructed in compliance with all applicable sections of this regulation. The subsurface conditions of the underlying area shall be capable of supporting the expansion.

p. A construction certification report shall be submitted to the Department for approval after the completion of landfill construction by a S.C. licensed engineer other than the design engineer. This report shall include at a minimum, the information prepared in accordance with the application requirements. In addition, the construction certification report shall contain as-built drawings prepared and sealed by a land surveyor registered in South Carolina noting any deviations from the approved engineering plans. The construction certification report shall include a comprehensive narrative by the engineer. Upon approval of the construction certification report and a satisfactory Department inspection, the Department will grant approval for disposal of waste.

q. The Department may, on a case-by-case basis, approve other landfill designs, provided there is adequate information to demonstrate that the proposed design meets or exceeds the environmental and public health protection standards outlined in this regulation.

r. Class Three landfills shall have a minimum 1.7 factor safety against failure, where the soil conditions are complex and when available strength data does not provide a consistent, complete, or logical picture of the strength characteristics. Where the soil conditions are uniform and high quality strength data provides a consistent, complete, and logical picture of the strength characteristics, a minimum 1.2 factor safety against failure may be used. The determination of the maximum horizontal acceleration of the lithified earth material for the site shall be based on the seismic 250-year interval maps in U.S. Geological Survey Open-File Report 82-1033¹. The permittee shall place the demonstration in the operating record and submit a copy to the Department.

Subpart E. Groundwater Monitoring and Corrective Action

258.50. Applicability.

a. The requirements in this part apply to all Class Three landfills, except as provided in paragraph b. below.

b. Groundwater monitoring requirements in Sections 258.51. through 258.55. of this Part may be modified by the Department for a Class Three landfill if the permittee can demonstrate that there is no potential for migration of hazardous constituents from the Class Three landfill to the uppermost aquifer during the active life of the landfill and the post-closure care period. This demonstration shall be certified by a qualified professional and approved by the Department, and shall be based upon:

(1) Site-specific field collected measurements, sampling, and analysis of physical, chemical, and biological processes affecting contaminant fate and transport; and,

(2) Contaminant fate and transport predictions that maximize contaminant migration and consider impacts on human health and environment.

c. Class Three landfills shall be in compliance with the groundwater monitoring requirements specified in Sections 258.51.–258.55. before waste can be placed in the landfill.

d. Once established at a Class Three landfill, groundwater monitoring shall be conducted throughout the active life and post-closure care period of the landfill as specified in Section 258.61.

e. For the purposes of this Subpart, a qualified professional shall certify all submittals.

f. The Department may establish alternative schedules for demonstrating compliance with the various sections of this Subpart on a case-by-case basis, provided sufficient technical rationale is provided to the Department to justify the alternate compliance schedule.

258.51 Groundwater Monitoring Systems

a. A groundwater monitoring system shall be installed that consists of a sufficient number of wells, installed at appropriate locations and depths, to yield representative groundwater samples from the uppermost aquifer that:

(1) Represent the quality of background groundwater that has not been affected by leakage from a landfill. A determination of background quality may include sampling of wells that are not hydraulically upgradient of the waste management area where:

(a) Hydrogeologic conditions do not allow the permittee to determine what wells are hydraulically upgradient; or,

(b) Sampling at other wells will provide an indication of background groundwater quality that is as representative or more representative than that provided by the upgradient wells; and,

(2) Represent the quality of groundwater passing the relevant point of compliance approved by the Department in Section 258.40.i. The downgradient monitoring system shall be installed between the relevant point of compliance and the actual disposal area, and shall ensure detection of any groundwater contamination in the uppermost aquifer. When physical obstacles preclude installation of groundwater monitoring wells at the relevant point of compliance at existing landfills, the downgradient monitoring system shall be installed at the closest practicable distance hydraulically downgradient from the relevant point of compliance to ensure detection of groundwater contamination in the uppermost aquifer.

b. Reserved.

¹ Entitled "Probabilistic Estimates of Maximum Acceleration and Velocity in Rock in the Contiguous United States," (Algermissen and Perkins, 1982).

c. Monitoring wells shall be approved by the Department and constructed, at a minimum, to the standards established in the R.61–71.H., South Carolina Well Standards.

(1) The permittee shall submit to the Department and place in the operating record, documentation of the design, installation, development, and abandonment of any monitoring wells, piezometers and other measurement, sampling, and analytical devices; and,

(2) The monitoring wells, piezometers, and other measurement, sampling, and analytical devices shall be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

d. The number, spacing, and depths of monitoring systems shall be:

(1) Determined based upon site-specific technical information that shall include thorough characterization of:

(a) Aquifer thickness, groundwater flow rate, groundwater flow direction including seasonal and temporal fluctuations in groundwater flow, and the information required by Section 258.17.; and,

(b) Saturated and unsaturated geologic units and fill materials overlying the uppermost aquifer, materials comprising the uppermost aquifer, and materials comprising the confining unit defining the lower boundary of the uppermost aquifer; including, but not limited to: thicknesses, stratigraphy, lithology, hydraulic conductivities, porosities and effective porosities; and,

(2) Certified by a qualified professional and approved by the Department. Within 14 days of this certification, the permittee shall place the certification in the operating record and submit a copy to the Department.

258.52. Reserved.

258.53. Groundwater Sampling and Analysis Requirements.

a. The groundwater monitoring program shall include consistent sampling and analysis procedures that are designed to ensure monitoring results that provide an accurate representation of groundwater quality at the background and downgradient wells installed in compliance with Section 258.51.a. of this Part. The permittee shall submit to the Department for review and approval, the sampling and analysis procedures and protocols to be used at the facility. After approval by the Department, documentation shall be placed in the operating record. The program shall include procedures and techniques for:

- (1) Sample collection;
- (2) Sample preservation and shipment;
- (3) Analytical procedures;
- (4) Chain of custody; and,
- (5) Quality assurance and quality control.

b. The groundwater monitoring program shall include sampling and analytical methods that are appropriate for groundwater sampling and that accurately measure hazardous constituents and other monitoring parameters in groundwater samples. Detection limits for those parameters that have a Maximum Contaminant Level (MCL) that has been promulgated under South Carolina R.61–58, State Primary Drinking Water Regulations, shall be, at a minimum, below the established MCL. Detection levels shall be as low as practically possible, and at the practical quantitation level (PQL) for those constituents with no MCL. Groundwater samples shall not be field-filtered prior to laboratory analysis.

c. The sampling procedures and frequency shall be protective of human health and the environment.

d. Groundwater elevations shall be measured and recorded for each well prior to initiating sampling procedures each time groundwater is sampled. The permittee shall determine the rate and direction of groundwater flow each time groundwater is sampled. Groundwater elevations in wells that monitor the same waste management area shall be measured on the same day to avoid temporal variations in groundwater flow which could preclude an accurate determination of groundwater flow rate and direction.

e. The permittee shall establish background groundwater quality in a hydraulically upgradient or background well(s) for each of the metals or constituents required in the particular groundwater monitoring program that applies to the Class Three landfill, as determined in Section 258.54.a., or Section 258.55.a. Background groundwater quality may be established at wells that are not located hydraulically upgradient from the Class Three landfill if it meets the requirements of Section 258.51.a.(1). In order to establish background groundwater quality in a reasonable period of time, pursuant to Sections 258.53.i.(1) and 258.53.i.(2), the permittee shall collect and analyze a minimum of four (4) independent groundwater samples from each compliance well and each background well prior to the end of the first year of operation. The Department may, on a case-by-case basis, approve an alternate subset of wells to be sampled for the establishment of background groundwater quality. The alternate subset of wells shall consist of a minimum of four (4) wells, or the total number of wells monitoring the landfill, whichever is least, and shall include all background well(s). This sampling and analysis shall be accomplished in a manner consistent with the requirements of Section 258.53.f. Pursuant to Section 258.51.a.(1), the above samples shall represent the quality of background groundwater that has not been affected by leakage from a landfill.

f. The number of samples collected to establish groundwater quality data shall be consistent with the appropriate statistical procedures determined pursuant to paragraph g. below. The sampling procedures shall be those specified in Section 258.54.b. for detection monitoring, Sections 258.55.b. and d. for assessment monitoring, and Section 258.56.b. for corrective action.

g. The permittee shall specify in the operating record a statistical method to be used in evaluating groundwater monitoring data for each metal or other hazardous constituent requiring statistical analysis. The statistical test chosen shall be conducted for each parameter in each well, every time samples are collected. The following methods may be used:

(1) A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method shall include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent;

(2) An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method shall include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent;

(3) A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit;

(4) A control chart approach that gives control limits for each constituent; or,

(5) Another statistical test method that meets the performance standards of Section 258.53.h. The permittee shall place a justification for this alternative in the operating record and obtain approval from the Department prior to the use of this alternative test. The justification shall demonstrate that the alternative method meets the performance standards of Section 258.53.h.

h. Any statistical method chosen according to paragraph g. above shall comply with the following performance standards, as appropriate:

(1) The statistical method used to evaluate groundwater monitoring data shall be appropriate for the distribution of chemical parameters or hazardous constituents. If the distribution of the chemical parameters or hazardous constituents are shown by the permittee to be inappropriate for a normal theory test, then the data shall be transformed or a distribution-free theory test used. If the distributions for the constituents differ, more than one statistical method may be needed;

(2) If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background constituent concentrations or a ground-water protection standard, the test shall be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experiment wise error rate for each testing period shall be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons shall be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts;

(3) If a control chart approach is used to evaluate groundwater monitoring data, the specific type of control chart and its associated parameter values shall be protective of human health and the environment. The parameters shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern;

(4) If a tolerance interval or a predictional interval is used to evaluate groundwater monitoring data, the levels of confidence, and for tolerance intervals, the percentage of the population that the interval contains, shall be protective of human health and the environment. These parameters shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern;

(5) The statistical method shall account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantitation limit (pql) that is used in the statistical method shall be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility; and,

(6) If necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

i. The permittee shall determine whether or not there is a statistically significant increase over background values for each parameter or constituent required in the particular groundwater monitoring program that applies to the Class Three landfill, as determined in Section 258.54.a. or Section 258.55.a.

(1) In determining whether a statistically significant increase has occurred, the permittee shall compare the groundwater quality of each parameter or constituent at each monitoring well designated pursuant to Section 258.51.a.(2) to the background value of that constituent, according to the statistical procedures and performance standards specified in paragraphs g. and h. above.

(2) Within a reasonable period of time after completing sampling and analysis, the permittee shall determine whether there has been a statistically significant increase over background for each metal or other hazardous constituent requiring statistical analysis at each monitoring well.

258.54. Detection Monitoring Program.

a. Detection monitoring is required at all Class Three landfill groundwater monitoring wells defined in Sections 258.51.a.(1) and a.(2). At a minimum, a detection monitoring program shall include the monitoring for the constituents listed in Appendix IV of this part.

(1) The Department may delete any of the Appendix IV monitoring parameters for a Class Three landfill if it can be shown that the deleted constituent(s) are not reasonably expected to be contained in or derived from the waste contained in the landfill.

(2) The Department may require additional groundwater monitoring parameters for routine monitoring based on the chemical and physical nature of the waste stream received by the landfill and any analytical data for the waste streams provided by the permittee.

b. The monitoring frequency for all constituents listed in Appendix IV to this part shall be at least semiannual during the active life of the facility and the post-closure care period. At least one sample from each well (background and downgradient) shall be collected and analyzed during each sampling event.

c. The Department may specify an appropriate alternative frequency for repeated sampling and analysis for Appendix IV constituents during the active life and the post-closure care period. The alternative frequency during the active life shall be no less than semiannual. The alternative frequency shall be based on consideration of the following factors:

(1) Lithology of the aquifer and unsaturated zone;

(2) Hydraulic conductivity of the aquifer and unsaturated zone;

(3) Groundwater flow rates;

(4) Minimum distance between upgradient edge of the Class Three landfill and downgradient monitoring well screen (minimum distance of travel); and,

(5) Resource value of the aquifer.

d. If the permittee determines, pursuant to Section 258.53.g., that there is a statistically significant increase over background for one or more of the metals listed in Appendix IV, or above the MCL or PQL, as applicable, for any volatile organic compound (VOC) listed in Appendix IV at any monitoring well at the boundary specified in Section 258.51.a.(2), the permittee shall:

- (1) Within 14 days of this finding, notify the Department;
- (2) Within 14 days of this finding, place a notice in the operating record indicating which constituents have shown statistically significant changes from background levels;
- (3) Within 30 days of this finding, resample the monitoring well(s) in question for Appendix IV to determine the validity of the data; and,
- (4) If the data are validated by resampling, establish an assessment monitoring program meeting the requirements of Section 258.55. within 90 days except as provided for in paragraph d.5 of this section.
- (5) The permittee may demonstrate that a source other than a Class Three landfill caused the contamination or that the statistically significant increase (SSI) resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. A report documenting this demonstration shall be certified by a qualified professional, submitted to the Department for approval, and placed in the operating record. If a successful demonstration is made and documented, the permittee may continue detection monitoring as specified in this section. If, after 90 days, a successful demonstration is not made, the permittee shall initiate an assessment monitoring program as required in Section 258.55.

e. The permittee shall submit to the Department on or before the anniversary date of issuance of the permit, an annual report certified by a qualified professional containing all of the analytical and statistical analysis performed at the site for the previous year as a result of the requirements of this Part. The annual report shall contain the following:

- (1) The results of all analytical testing performed at the site during the previous year, and any applicable data concerning sampling and analysis of monitoring wells at the site;
- (2) A determination of the technical sufficiency of the monitoring well network in detecting a release from the facility as required by Section 258.51.;
- (3) The determination of groundwater elevations, groundwater flow directions and groundwater flow rates as specified in Section 258.53.d. Groundwater flow directions shall be based upon interpretation of a potentiometric map prepared utilizing the groundwater elevations measured at the site;
- (4) A summary of the results of the statistical analysis performed in accordance with Sections 258.53.g. and 258.53.h.; and,
- (5) Recommendations for any necessary actions regarding the groundwater monitoring system.

f. The results of all chemical analysis of groundwater samples taken during routine monitoring shall be submitted to the Department within 60 days of sample collection. On sampling events where an annual report is to be submitted to the Department, the annual report shall satisfy this requirement.

258.55. Assessment Monitoring Program.

a. Assessment monitoring is required whenever a statistically significant increase over background has been detected and validated, in accordance with Section 258.54.d., for one or more of the metals listed in Appendix IV, or above the MCL or PQL, as applicable, for any volatile organic compound (VOC) listed in Appendix IV, unless a successful demonstration has been made in accordance with Section 258.54.d.(5).

b. Within 90 days of triggering an assessment monitoring program, and annually thereafter, the permittee shall sample and analyze the groundwater for all constituents identified in Appendix V. A minimum of one sample from each downgradient well shall be collected and analyzed during each sampling event. For any constituent detected in the downgradient wells as the result of the complete Appendix V analysis, a minimum of four (4) independent samples from each well (background and downgradient) shall be collected and analyzed to establish background for the new constituents.

c. The Department may approve an appropriate subset of wells to be sampled and analyzed for Appendix V constituents during assessment monitoring, provided the permittee provides sufficient technical rationale for the subset of wells. The Department may delete any of the Appendix V monitoring parameters for a Class Three landfill if it can be shown that the removed constituents are not reasonably expected to be in or derived from the waste contained in the landfill.

d. The Department may allow an appropriate alternate frequency for repeated sampling and analysis for the full set of Appendix V constituents required by Section 258.55.b., during the active life and post-closure care of the landfill considering the following factors:

- (1) Lithology of the aquifer and unsaturated zone;
- (2) Hydraulic conductivity of the aquifer and unsaturated zone;
- (3) Groundwater flow rates;
- (4) Minimum distance between upgradient edge of the Class Three landfill and downgradient monitoring well screen (minimum distance of travel);
- (5) Resource value of the aquifer; and,
- (6) Nature (fate and transport) of any constituents detected in response to this section.

e. After obtaining the results from the initial or subsequent sampling events required in paragraph b. above, the permittee shall:

- (1) Within 14 days, submit to the Department analytical results identifying the Appendix V constituents that have been detected and place a copy in the operating record;
- (2) Within 90 days, and on at least a semiannual basis thereafter, resample all wells specified by Section 258.51.a., conduct analyses for all constituents in Appendix IV and for those constituents in Appendix V that are detected in response to paragraph (b) above, and record their concentrations in the facility operating record. At least one sample from each well (background and downgradient) shall be collected and analyzed during these sampling events;
- (3) Establish background concentrations for any constituents detected pursuant to paragraphs b., c., d. or e.(2) above; and,
- (4) Establish groundwater protection standards for all constituents detected pursuant to paragraph b. or e. above. The groundwater protection standards shall be established in accordance with paragraph j. or k. below.

f. The Department may specify an alternative monitoring frequency during the active life and the post closure care period for the constituents referred to in this paragraph. The alternative frequency for Appendix V constituents during the active life (including closure) shall be no less than annual. The alternative frequency shall be based on consideration of the factors specified in paragraph (d) above.

g. If the concentrations of all Appendix V constituents are shown to be at or below background values, using the statistical procedures in Section 258.53.g., for two consecutive sampling events, the permittee may request approval from the Department to return to detection monitoring.

h. If the concentrations of any Appendix V constituents are above background values, but all concentrations are less than the groundwater protection standard established in paragraph j. or k. below, using the statistical procedures in Section 258.53.g., the permittee shall continue assessment monitoring in accordance with this section.

i. If one or more Appendix V constituents are detected at or above the groundwater protection standard established in paragraph j. or k. below in any sampling event, the permittee shall, within 14 days of this finding, submit to the Department analytical results identifying the Appendix V constituents that have exceeded the groundwater protection standard and notify the Department and all appropriate local government officials that the notice has been placed in the operating record. The permittee shall do one of the following:

- (1) Either:
 - (a) Submit to the Department within 60 days of this finding, a groundwater quality assessment plan for characterizing the nature and extent of the release.

- (b) Upon approval of the groundwater quality assessment plan, shall characterize the nature and extent of the release by installing additional monitoring wells as necessary;
 - (c) Install at least one additional monitoring well at the facility boundary in the direction of contaminant migration and sample this well in accordance with Section 258.55.d.(2);
 - (d) Notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off-site as indicated by sampling of wells in accordance with Section 258.55.i.(1); and,
 - (e) Initiate an assessment of corrective measures as required by Section 255.56. within 90 days; or,
 - (2) Demonstrate that a source other than a Class Three landfill caused the contamination, or that the statistically significant increase (SSI) resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. A report documenting this demonstration shall be certified by a qualified professional, submitted to the Department for approval, and placed in the operating record. If a successful demonstration is made, the permittee shall continue monitoring in accordance with the assessment monitoring program pursuant to Section 258.55., and may return to detection monitoring if the Appendix V constituents are at or below background as specified in Section 258.55.g. Until a successful demonstration is made, the permittee shall comply with Section 258.55.i. including initiating an assessment of corrective measures.
 - j. The permittee shall establish a groundwater protection standard for each Appendix V constituent detected in the groundwater. The groundwater protection standard shall be:
 - (1) For constituents for which a maximum contaminant level (MCL) has been promulgated under South Carolina R.61–58, State Primary Drinking Water Regulations, the MCL for that constituent;
 - (2) For constituents for which MCLs have not been promulgated, the background concentration for the constituent established from wells in accordance with 258.51.a.(1); or,
 - (3) For constituents for which the background level is higher than the MCL identified in paragraph j.(1) above or health based levels identified in Section 258.55.k.(1), the background concentration.
 - k. The Department may establish an alternative groundwater protection standard for constituents for which MCLs have not been established. These groundwater protection standards shall be appropriate health based levels that satisfy the following criteria:
 - (1) The level is derived in a manner consistent with Federal Environmental Protection Agency (EPA) guidelines for assessing the health risks of environmental pollutants (51 FR 33992, 34006, 34014, 34028, September 24, 1986);
 - (2) The level is based on scientifically valid studies conducted in accordance with the Toxic Substances Control Act Good Laboratory Practice Standards (40 CFR part 792) or equivalent;
 - (3) For carcinogens, the level represents a concentration associated with an excess lifetime cancer risk level (due to continuous lifetime exposure) of 1×10^{-6} ; and,
 - (4) For systemic toxicants, the level represents a concentration to which the human population (including sensitive subgroups) could be exposed to on a daily basis that is likely to be without appreciable risk of deleterious effects during a lifetime. For purposes of this subpart, systemic toxicants include toxic chemicals that cause effects other than cancer or mutation.
 - l. In establishing groundwater protection standards in paragraph j. or k. above, the Department may consider the following:
 - (1) Multiple contaminants in the groundwater;
 - (2) Exposure threats to sensitive environmental receptors; and,
 - (3) Other site-specific exposure or potential exposure to groundwater.
- 258.56. Assessment of Corrective Measures
- a. Within 90 days of finding that any of the constituents listed in Appendix V have been detected at a level exceeding the groundwater protection standards defined in Section 258.55.j. or k., the

permittee shall initiate an assessment of corrective measures. Such an assessment shall be completed within a reasonable period of time, not to exceed 180 days.

b. The permittee shall continue to monitor in accordance with the assessment monitoring program as specified in Section 258.55.

c. The assessment shall include an analysis of the effectiveness of potential corrective measures in meeting all of the requirements and objectives of the remedy as described in Section 258.57., addressing at least the following:

- (1) The performance, reliability, ease of implementation, and potential impacts of appropriate potential remedies, including safety impacts, cross-media impacts, and control of exposure to any residual contamination;
- (2) The time required to begin and complete the remedy;
- (3) The costs of remedy implementation; and,
- (4) The institutional requirements such as Department or local permit requirements or other environmental or public health requirements that may substantially affect implementation of the remedy(s).

d. The permittee shall discuss the results of the corrective measures assessment, prior to the selection of remedy, in a public meeting with interested and affected parties.

258.57. Selection of Remedy.

a. Based on the results of the corrective measures assessment conducted according to Section 258.56, the permittee shall select a remedy that, at a minimum, meets the standards listed in paragraph b. below. The permittee shall notify the Department within 14 days of selecting a remedy and submit a report to the Department for review and approval that describes the selected remedy and how it meets the standards in paragraph b. below.

b. Remedies shall:

- (1) Be protective of human health and the environment;
- (2) Attain the groundwater protection standard as specified pursuant to Section 258.55.j. or k.;
- (3) Control the source(s) of releases so as to reduce or eliminate, to the maximum extent practicable, further releases of Appendix V constituents into the environment that may pose a threat to human health or the environment; and,
- (4) Comply with standards for management of wastes as specified in Section 258.58.d.

c. In selecting a remedy that meets the standards in paragraph b. above, the permittee shall consider the following evaluation factors:

- (1) The long- and short-term effectiveness and protectiveness of the potential remedy(s), along with the degree of certainty that the remedy will prove successful based on consideration of the following:
 - (a) Magnitude of reduction of existing risks;
 - (b) Magnitude of residual risks in terms of likelihood of further releases due to waste remaining following implementation of a remedy;
 - (c) The type and degree of long-term management required, including monitoring, operation, and maintenance;
 - (d) Short-term risks that might be posed to the community, workers, or the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, and redisposal or containment;
 - (e) Time until full protection is achieved;
 - (f) Potential for exposure of humans and environmental receptors to remaining wastes, considering the potential threat to human health and the environment associated with excavation, transportation, redisposal, or containment;
 - (g) Long-term reliability of the engineering and institutional controls; and,
 - (h) Potential need for replacement of the remedy;

(2) The effectiveness of the remedy in controlling the source to reduce further releases based on consideration of the following factors:

- (a) The extent to which containment practices will reduce further releases; and,
- (b) The extent to which treatment technologies may be used;

(3) The ease or difficulty of implementing a potential remedy(s) based on consideration of the following types of factors:

- (a) Degree of difficulty associated with constructing the technology;
- (b) Expected operational reliability of the technologies;
- (c) Need to coordinate with and obtain necessary approvals and permits from other agencies;
- (d) Availability of necessary equipment and specialists; and,
- (e) Available capacity and location of needed treatment, storage, and disposal services; and,

(4) The degree to which community concerns are addressed by a potential remedy(s).

d. The permittee shall specify as part of the selected remedy a schedule(s) for initiating and completing remedial activities. Such a schedule shall require the initiation of remedial activities within a reasonable period of time taking into consideration the factors set forth in paragraphs d.(1-8). The permittee shall consider the following factors in determining the schedule of remedial activities:

(1) Extent and nature of contamination;

(2) Practical capabilities of remedial technologies in achieving compliance with groundwater protection standards established in Section 258.55.j. or k. and other objectives of the remedy;

(3) Availability of treatment or disposal capacity for wastes managed during implementation of the remedy;

(4) Desirability of utilizing technologies that are not readily available, but which may offer significant advantages over already available technologies in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives;

(5) Potential risks to human health and the environment from exposure to contamination prior to completion of the remedy;

(6) Resource value of the aquifer including:

- (a) Current and future uses;
- (b) Proximity and withdrawal rate of users;
- (c) Groundwater quantity and quality;

(d) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituent;

(e) The hydrogeologic characteristic of the facility and surrounding land;

(f) Groundwater removal and treatment costs; and,

(g) The cost and availability of alternative water supplies;

(7) Practicable capability of the permittee; and,

(8) Other relevant factors.

e. The Department may determine that remediation of a release of an Appendix V constituent from a Class Three landfill is not necessary if the permittee demonstrates to the Department that:

(1) The groundwater is additionally contaminated by substances that have originated from a source other than a Class Three landfill and those substances are present in concentrations such that cleanup of the release from the Class Three landfill would provide no significant reduction in risk to actual or potential receptors; or,

(2) The constituent(s) is present in groundwater that:

- (a) Does not currently meet the definition of an underground source of drinking water per South Carolina Water Classifications and Standards R.61-68; and,

(b) Is not hydraulically connected with waters to which the hazardous constituents are migrating, or are likely to migrate in a concentration(s) that would exceed the groundwater protection standards established in Section 258.55.j. or k. or,

(3) Remediation of the release(s) is technically impracticable; or,

(4) Remediation results in unacceptable cross-media impacts.

f. A determination by the Department pursuant to paragraph e. above of this section shall not affect the authority of the Department to require the permittee to undertake source control measures or other measures that may be necessary to eliminate or minimize further releases to the groundwater, to prevent exposure to the groundwater, or to remediate the groundwater to concentrations that are technically practicable and significantly reduce threats to human health or the environment.

258.58. Implementation of the Corrective Action Program.

a. Based on the schedule established in Section 258.57.d. for initiation and completion of remedial activities, the permittee shall:

(1) Establish and implement a corrective action groundwater monitoring program that:

(a) At a minimum, meets the requirements of an assessment monitoring program in Section 258.55.;

(b) Indicates the effectiveness of the corrective action remedy; and,

(c) Demonstrates compliance with groundwater protection standards pursuant to Section 258.58.e;

(2) Implement the corrective action remedy selected in Section 258.57.; and,

(3) Take any interim measures necessary to ensure the protection of human health and the environment. Interim measures should, to the greatest extent practicable, be consistent with the objectives of and contribute to the performance of any remedy that may be required pursuant to Section 258.57. The following factors shall be considered by a permittee in determining whether interim measures are necessary:

(a) Time required to develop and implement a final remedy;

(b) Actual or potential exposure of nearby populations or environmental receptors to hazardous constituents;

(c) Actual or potential contamination of drinking water supplies or sensitive ecosystems;

(d) Further degradation of the groundwater that may occur if remedial action is not initiated expeditiously;

(e) Weather conditions that may cause hazardous constituents to migrate or be released;

(f) Risks of fire or explosion, or potential for exposure to hazardous constituents as a result of an accident or failure of a container or handling system; and,

(g) Other situations that may pose threats to human health and the environment.

b. A permittee may determine, based on information developed after implementation of the remedy or other information, that compliance with requirements of Section 258.57.b. are not being achieved through the remedy selected. In such cases, the permittee shall implement other methods or techniques that could practicably achieve compliance with the requirements, unless the permittee makes the determination under 258.c.

c. If the permittee determines that compliance with requirements in Section 258.57.b. cannot be practically achieved with currently available methods, the permittee shall:

(1) Obtain certification of a qualified professional and approval by the Department that compliance with requirements in Section 258.57.b. cannot be practically achieved with any currently available methods;

(2) Implement alternate measures to control exposure of humans or the environment to residual contamination, as necessary to protect human health and the environment;

(3) Implement alternate measures for control of the sources of contamination, or for removal or decontamination of equipment, units, devices, or structures that are:

- (a) Technically practicable; and,
- (b) Consistent with the overall objective of the remedy; and,
- (4) Notify the Department within 14 days that a report justifying the alternative measures prior to implementing the alternative measures has been placed in the operating record.
- d. All solid wastes that are managed pursuant to a remedy required in Section 258.57., or an interim measure required in Section 258.58.a.(3), shall be managed in a manner:
 - (1) That is protective of human health and the environment; and,
 - (2) That complies with applicable Resource Conservation and Recovery Act (RCRA) requirements.
- e. Remedies selected pursuant to Section 258.57. shall be considered complete when:
 - (1) The permittee complies with the groundwater protection standards established in Section 258.55.j. or k. at all points within the plume of contamination that lie beyond the groundwater monitoring well system established in Section 258.51.a.
 - (2) Compliance with the groundwater protection standards established in Section 258.55.j. or k. has been achieved by demonstrating that concentrations of Appendix V constituents have not exceeded the groundwater protection standard(s) for a period of three consecutive years using the statistical procedures and performance standards in Section 258.53.g. and h. The Department may specify an alternative length of time during which the permittee shall demonstrate that concentrations of Appendix V constituents have not exceeded the groundwater protection standard(s) taking into consideration:
 - (a) Extent and concentration of the release(s);
 - (b) Behavior characteristics of the hazardous constituents in the groundwater;
 - (c) Accuracy of monitoring or modeling techniques, including any seasonal, meteorological, or other environmental variabilities that may affect the accuracy; and,
 - (d) Characteristics of the groundwater.
 - (3) All actions required to complete the remedy have been satisfied.
- f. Within 14 days of completion of the remedy, the permittee shall submit to the Department a certification signed by a qualified professional stating that the remedy has been completed in compliance with the requirements of Section 258.58.e.
- g. Upon the Department's approval of the certification required in 258.58.f., the permittee shall be released from the requirements for financial assurance for corrective action.

258.59. Reserved.

Subpart F. Closure and Post-closure Care.

258.60. Closure Criteria.

- a. Owners/operators of all Class Three landfills shall install a final cover system that is designed to minimize infiltration and erosion. The final cover system shall be designed and constructed to:
 - (1) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present, or a permeability no greater than 1×10^{-5} cm/sec, whichever is less;
 - (2) Minimize infiltration through the closed Class Three landfill by the use of an infiltration layer that contains a minimum eighteen (18) inches of earthen material;
 - (3) Minimize erosion of the final cover by the use of an erosion layer that contains a minimum one (1) foot of earthen material that is capable of sustaining native plant growth; and,
 - (4) Have a storm water conveyance system for the landfill cap designed to ensure that the hydraulic head at any point does not exceed one (1) foot for a 24-hour period as the result of a 24-hour, 25-year storm event on all areas that have received final cover.
- b. The Department may approve an alternative final cover design that includes:
 - (1) An infiltration layer that achieves an equivalent reduction in infiltration as the infiltration layer specified in paragraphs a.(1) and a.(2) above; and,

(2) An erosion layer that provides equivalent protection from wind and water erosion as the erosion layer specified in a.(3) above.

c. The permittee shall prepare a written closure plan that describes the steps necessary to close all Class Three landfills at any point during their active life in accordance with the cover design requirements in Section 258.60.a. or b., as applicable. The closure plan, at a minimum, shall include the following information:

(1) A description of the final cover, designed in accordance with Section 258.60.a. and the methods and procedures to be used to install the cover;

(2) An estimate of the largest area of the Class Three landfill ever requiring a final cover as required in Section 258.60.a. at any time during the active life;

(3) An estimate of the maximum inventory of wastes ever on-site over the active life of the landfill facility; and,

(4) A schedule for completing all activities necessary to satisfy the closure criteria in Section 258.60.

d. Prior to permit issuance, the permittee shall submit to the Department a closure plan. The closure plan shall be updated if any changes occur at the facility which require a deviation from the approved closure plan.

e. Prior to beginning closure of each Class Three landfill as specified in Section 258.60.f., a permittee shall submit a notice of intent to close to the Department to include a schedule outlining closure activities.

f. The permittee shall begin closure activities of each Class Three landfill no later than 30 days after the date on which the Class Three landfill receives the known final receipt of wastes, or if the Class Three landfill has remaining capacity and there is a reasonable likelihood that the Class Three landfill will receive additional wastes, no later than one year after the most recent receipt of wastes. Extensions beyond the one-year deadline for beginning closure may be granted by the Department if the permittee demonstrates that the Class Three landfill has the capacity to receive additional wastes and the permittee has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the unclosed Class Three landfill.

g. The permittee of all Class Three landfills shall complete closure activities of each Class Three landfill in accordance with the closure plan within 180 days following the beginning of closure as specified in Section 258.60.f. Extensions of the closure period may be granted by the Department if the permittee demonstrates that closure will take longer than 180 days and they have taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed Class Three landfill.

h. Following closure of each Class Three landfill, the permittee shall submit to the Department for approval certification, that is signed by a South Carolina registered professional engineer other than the design engineer, verifying that closure has been completed in accordance with the closure plan. A copy of this certification shall be placed in the operating record. The certification testing shall be conducted at a minimum rate of one (1) permeability test per acre and four (4) density/thickness tests per acre.

i. Within 30 days of the Department's issuance of final closure approval of a Class Three landfill, and using a form approved by the Department, the permittee shall record with the appropriate Register of Deeds, a notation in the record of ownership of the property - or some other instrument which is normally examined during title search - that will in perpetuity notify any potential purchaser of the property that the land or a portion thereof was used for the disposal of solid waste. This notice shall define the final boundaries of the waste disposal area including the latitude and longitude, identify the type, location, and quantity of solid waste disposed on the property, and advise potential owners of the property that there are land use restrictions.

j. The permittee may request permission from the Department to remove the notation from the deed if all wastes are properly removed from the facility and there is no environmental impact.

k. All facilities constructed with liner systems in accordance with this regulation shall install a final cover system which, at a minimum, consists of:

(1) A gas management layer or layers, or other gas management design, as necessary;

(2) Eighteen (18) inches of soil with a maximum permeability of 1×10^{-5} centimeters per second, and capable of providing a suitable foundation for the flexible membrane liner specified in paragraph (3) below;

(3) A 20-mil flexible membrane liner with a maximum permeability equal to or less than the bottom liner system, if HDPE is used as the FML, then a sixty (60) mil thickness is required;

(4) A drainage layer; and,

(5) A minimum of two feet of soil capable of supporting native vegetation.

1. All Class Three landfills closed utilizing a flexible membrane cover system shall be constructed to preclude precipitation migration into the landfill. All flexible membrane cover systems shall be constructed in accordance with the requirements of the approved engineering plans, reports, specifications and manufacturer's recommendations.

m. The erosion layer shall be designed to maintain vegetative growth over the landfill by seeding with native grasses or other suitable cover. A 75% or greater vegetative ground cover with no substantial bare spots shall be established and maintained throughout the post-closure period.

n. The final cover system shall promote positive drainage by grading to create at least a 3%, but not greater than 5%, surface slope and a side slope that does not exceed three horizontal feet to one vertical foot, i.e., a 3:1 slope.

o. The Department may, on a case-by-case basis, approve other landfill closure designs, provided there is adequate information to demonstrate that the proposed design meets or exceeds the environmental and public health protection standards outlined in Subparts B, D and E of this regulation.

258.61. Post-closure Care Requirements.

a. Following closure of each Class Three landfill, the permittee shall conduct post-closure care. Post-closure care shall be conducted for a minimum 30 years, except as provided in paragraph b. below, and consist of at least the following:

(1) Maintaining the integrity and effectiveness of any final cover, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, and preventing run-on and run-off from eroding or otherwise damaging the final cover;

(2) Maintaining and operating the leachate collection system in accordance with the requirements in 258.40., if applicable. The Department may allow the permittee to stop managing leachate if the permittee demonstrates to the Department's satisfaction that leachate no longer poses a threat to human health and the environment;

(3) Monitoring the groundwater in accordance with the requirements of Subpart E and maintaining the groundwater monitoring system, if applicable; and,

(4) Maintaining and operating the gas monitoring system in accordance with the requirements of Section 258.23.

b. The length of the post-closure care period may be:

(1) Increased by the Department if the Department determines that the lengthened period is necessary to protect human health and the environment; or,

(2) Decreased by the Department if the permittee can provide technical rationale that the decreased post-closure care period is sufficient to protect human health and the environment.

c. The permittee of all Class Three landfills shall prepare a written post-closure plan that includes, at a minimum, the following information:

(1) A description of the monitoring and maintenance activities required in paragraph a. for each Class Three landfill, and the frequency at which these activities will be performed;

(2) Name, address, and telephone number of the person or office to contact about the facility during the post-closure period; and,

(3) A description of the planned uses of the property during the post-closure period. Post-closure use of the property shall not disturb the integrity of the final cover, liner(s), or any other components of the containment system, or the function of the monitoring systems unless necessary to comply with the requirements in this Part. The Department may approve any other

disturbance of the containment system if the permittee demonstrates that disturbance of the final cover, liner or other component of the containment system, including any removal of waste, will not increase the potential threat to human health or the environment.

d. Prior to permit issuance, the permittee shall submit to the Department a post-closure plan for review and approval. The post-closure plan shall be updated if any changes occur at the facility which require a deviation from the approved post-closure plan.

e. Following completion of the post-closure care period for each Class Three landfill, the permittee shall submit to the Department, certification that is signed by a South Carolina registered professional engineer other than the design engineer, verifying that post-closure care has been completed in accordance with the post-closure plan.

258.62.–258.69. (Reserved.)

Subpart G. Financial Assurance Criteria. (See Part I., Section E. of this regulation.)

Subpart H. Permit Application Requirements. Prior to the construction, operation, expansion or modification of a Class Three landfill, a permit shall be obtained from the Department.

1. Prior to submitting a permit application to the Department, the applicant shall satisfactorily complete the following:

a. Determination of Need. The applicant shall submit to the Department a request pursuant to Regulation 61–107.17. for determining need of the proposed landfill or landfill expansion, if applicable.

b. Consistency Determination. The applicant shall submit to the Department a request for a determination of consistency with items listed below.

(1) State and County/Region Solid Waste Management Plans. The permit applicant shall demonstrate consistency with the State Solid Waste Management Plan in effect at the time of submittal of the request for the Determination of Consistency. The permit applicant shall demonstrate consistency with the county/region plan in effect at the time of the submittal of the request for the Determination of Consistency. Class Three landfills managing solid waste generated solely in the course of normal operation on property under the same ownership or control as the Class Three landfill are not required to demonstrate consistency with the State and host County/Region Solid Waste Management Plans;

(2) Local zoning and land-use ordinances. Documentation demonstrating consistency with local zoning and land-use plans, e.g., zoning map, land-use map, and applicable part of the zoning ordinance shall be submitted to the Department; and,

(3) All other applicable local ordinances. Supporting documentation to include a copy of the ordinance shall be submitted to the Department.

(4) Buffer Requirement. The applicant shall demonstrate that it meets the buffer requirement set forth in Subpart B, Section 258.18. a of this Part at the time of submittal of the demonstration. The Department must notify by certified mail, return receipt requested, the applicant and any other affected person who requests to be notified of its determination of compliance with this buffer requirement.

c. If the Department's final determination of need is terminated, pursuant to R.61–107.17, all other determinations under Section H.1.a. and b. above will also be void.

d. Landfill Siting Study. If the Department determines there is a need for the proposed landfill/expansion pursuant to R.61–107.17., the applicant shall conduct a landfill siting study and submit the results of the study to the Department for a site suitability determination. This study shall be used to eliminate those sites which, due to location restrictions, are unsuitable sites and to determine if the site conditions warrant further permitting activities. The landfill siting study shall include, at a minimum, the following steps:

(1) A preliminary hydrogeologic characterization report on the site, which contains readily available information on the regional, local, and site hydrogeology and groundwater use. The preliminary hydrogeologic characterization report shall be used to eliminate hydrogeologically unsuitable sites, and to determine if site conditions warrant further investigation;

(2) Pending approval of the preliminary hydrogeologic characterization report, a work plan detailing the site specific hydrogeologic investigations to be performed at the site shall be submitted to the Department for review and approval; and,

(3) Upon approval of the work plan specified in paragraph b. above, a site hydrogeologic characterization report shall be prepared and submitted to the Department detailing the findings of the site specific investigations. The landfill siting investigation shall ensure that the proposed landfill location complies with the location criteria outlined in Subpart B of this Part. During review by the Department of the suitability of the site based on the site hydrogeologic characterization report, the permit applicant may proceed with site design, and submittal of a groundwater monitoring plan as specified in Subpart H, Section 5.b.(14) below. Approval of the site shall be required before the Department will comment on engineering plans associated with the construction of the facility.

2. Administrative Review. Upon satisfactory completion of Subpart H.1. above, the applicant shall submit to the Department a complete permit application. The applicant shall submit to the Department a minimum of three copies of the following documents:

- a. A completed permit application, on a form provided by the Department.
- b. Tonnage Limit. The applicant shall submit to the Department a request for a determination of the maximum annual tonnage limit.

(1) Prior to the issuance of a permit for a new or expanded commercial Class Three landfill, the Department shall approve an allowable maximum annual tonnage limit based on the facility's design capacity, operational capacity, the expected operational life, and the planning area as determined by R.61-107.17, SWM: Demonstration-of-Need provided, however, that the maximum annual tonnage limit must not exceed the maximum yearly disposal rate pursuant to Regulation 61-107.17.

(2) Prior to issuance of a permit for a new or expanded noncommercial Class Three landfill, the Department shall approve a maximum annual tonnage limit based on the facility's design capacity, operational capacity, and the expected operational life.

c. A cost estimate for hiring a third party to close the sum of all active areas of the landfill requiring a final cover at any time during the operating life when the extent and manner of its operation would make closure the most expensive, as indicated in the closure plan. This estimate requires Department approval prior to the permittee establishing a financial assurance mechanism pursuant to Part I., Section E. of this regulation;

d. A Disclosure Statement pursuant to Part I, Section F.1. of this regulation. The Department may accept one disclosure statement for multiple facility permit applicants. This requirement shall not apply if the applicant is a local government or a region comprised of local governments;

e. Complete engineering plans and reports that are signed and stamped by a South Carolina Licensed Professional Engineer in accordance with Item 5. below;

f. The names and addresses of the owners of real property as they appear on the county tax maps as contiguous landowners of the proposed permit area.

3. When the submittal is administratively complete, the Department will notify, in writing, the applicant, the host local government if different from the applicant, and any other person who has made a written request for notification to the Department of the determination. Within 15 days of the Department's notification that the submittal is administratively complete:

a. The applicant for a Class Three landfill that will accept municipal solid waste shall submit to the Department demonstration and documentation that the facility issues negotiation process has been initiated in accordance with S.C. Code Section 44-96-470, to include an affidavit of publication of the public notice in the newspaper as required by Code Section 44-96-470(A).

b. The applicant for a Class Three landfill that will not accept municipal solid waste shall publish notice of the permit application pursuant to Part I, Section D.2. of the regulation, and submit an affidavit of publication of the public notice in the newspaper to the Department.

4. Upon completion of the facility issues negotiation process, the facilitator shall provide to the Department a summary of the results of the negotiations within 14 days of the certification of the

facilitator's final report of resolution of the host local government as required by S.C. Code Section 44-96-470.

5. Technical Review. After determining that the permit application is administratively complete, the Department will conduct a Technical Review of the proposed project. The Department's technical review of the permit application will involve the documents and issues addressed in this Section. All individual drawings and plans shall be signed and stamped by a professional engineer duly licensed to practice in the State of South Carolina.

a. Engineering Drawings and Plans. All applications for new Class Three landfills and landfill expansions shall contain engineering drawings that set forth the proposed landfill location, property boundaries, adjacent land uses and construction details. Additional requirements for landfills with leachate recirculation are outlined in SubPart A, Section 258.4. of this Part. All construction drawings shall be bound and rolled and shall contain the following:

(1) A vicinity plan or map that shows the area within one mile of the property boundaries of the landfill in terms of: the existing and proposed zoning and land uses within that area at the time of permit application; and, residences, public and private water supply wells, known aquifers, surface waters (with quality classifications), access roads, bridges, railroads, airports, historic sites, and other existing and proposed man-made or natural features relating to the facility. The plan shall be on a scale of not greater than 500 feet per inch unless otherwise approved by the Department.

(2) Site plans that show: the landfill's property boundaries, as certified by an individual licensed to practice land surveying in the State of South Carolina; off-site and on-site utilities (such as, electric, gas, water, storm, and sanitary sewer systems), rights-of-way and easements; the names and addresses of abutting property owners; the location of soil borings, excavations, test pits, gas venting structures, wells, piezometers, environmental and facility monitoring points and devices, benchmarks and permanent survey markers; on-site buildings and appurtenances, fences, gates, roads, parking areas, drainage culverts, and signs; the delineation of the total landfill area including planned staged development of the landfill's construction and operation, and the lateral limits of any previously filled areas; the location and identification of the sources of cover materials; the location and identification of special waste handling areas; and site topography with five feet minimum contour intervals; and, any other relevant information as necessary for proper operation. The site plan shall show wetlands, property lines, existing wells, water bodies, and soil stockpiles that will be used as cover material. The plan shall show all buildings, to include residences and schools, on adjacent properties. The plan shall be on a scale of not greater than 200 feet per inch unless otherwise approved by the Department.

(3) Detailed plans of the landfill that clearly show in plan and cross-sectional views the following: the original, undeveloped site topography before excavation or placement of solid waste; the existing site topography, if different, including the location and approximate thickness and nature of any existing solid waste; plan view of the location of the seasonal high water table in relation to the bottom elevation of the proposed landfill; a cross sectional view of existing and final elevations, bottom elevation and deflected bottom elevation, and seasonal high water table; geologic units; known and interpolated bedrock elevations; the proposed limits of excavation and waste placement; other devices as needed to divert or collect surface water run-on or run-off; a plan and cross section view of fill progression for the life of the landfill; the final elevations and grades of the landfill; groundwater monitoring system; and, the building locations and appurtenances.

(4) Detailed plans of the sedimentation ponds. These plans shall clearly show in plan and cross sectional views the following: the existing site topography, the seasonal high water table, pond bottom elevation, permanent pool elevation, first flush elevation, maximum elevation for sedimentation clean-out, emergency spillway 100-yr storm elevation, riser pipe, antiseep collars, outlet protection, emergency spillway, dewatering riser, trash/antivortex rack, and sedimentation pond gauge legend.

(5) Detailed plans shall show: the location and placement of each liner system and each leachate collection system, locating and showing all critical grades and elevations of the collection pipe inverts and drainage envelopes, manholes, cleanouts, valves and sumps; and, leachate storage, treatment and disposal systems including the collection network and any treatment, pre-treatment, or storage facilities.

b. Engineering Report. An Engineering Report comprehensively describing the existing site conditions and an analysis of the landfill, including closure and post-closure criteria. Additional requirements for landfills with leachate recirculation are outlined in Section 5.c. below. All engineering reports shall be bound. This report shall:

(1) Specify the filling rate (in tons per day) of the landfill describing the number, types, and specifications of all necessary machinery and equipment needed to effectively operate the landfill at the prescribed filling rate;

(2) Contain a detailed description of all construction phases, including, but not limited to, the liner system, leachate collection system, and final cover system;

(3) Contain an analysis of the site to include:

(a) The name, address, and location of all adjacent landowners; the closest population centers;

(b) A description of the primary transportation systems and waste transportation routes to the landfill (i.e., highways, airports, railways, etc.); and,

(c) An analysis of the existing topography, surface water and subsurface geological conditions;

(4) Discuss the closure and post-closure maintenance and operation of the landfill which shall include, but not be limited to:

(a) A closure design consistent with the requirements contained in Section 258.60;

(b) A post-closure water quality monitoring program consistent with requirements contained in Section 258.61;

(c) Methane monitoring and control systems as needed;

(d) An operation and closure plan for the leachate collection, treatment, and storage facilities consistent with the requirements of this Part; and,

(e) A discussion of the future use of the site including the specific proposed or alternative use. Future uses shall conform to the stabilization plan, required by this regulation and shall not adversely affect the final cover system;

(5) Include appendices demonstrating compliance with pertinent local laws and regulations pertaining to air, land, noise, and water pollution, and other supporting data, including literature citations;

(6) Describe the materials and construction methods for the placement of: each monitoring well; all gas venting systems; each liner and leachate collection and removal system; leachate storage, treatment, and disposal systems; and, cover systems. This description also shall include a discussion of provisions to be taken to prevent frost action upon each liner system in areas where refuse has not been placed;

(7) Estimate the expected quantity of leachate to be generated, including:

(a) An annual water budget estimating leachate generation quantities, prepared for periods of time of initial operation, the interim between the last receipt of waste and application of final cover, and following facility closure. At a minimum, the following factors shall be considered in the preparation of the precipitation infiltration into the landfill: average monthly temperature; average monthly precipitation; evaporation; evapotranspiration, which should consider the vegetation type and root zone depth; surface/cover soil conditions and their relation to precipitation runoff which shall account for the surface conditions and soil moisture holding capacity; and, all other sources of moisture contribution to the landfill;

(b) Liner and leachate collection system efficiencies calculated using an appropriate analytical or numerical assessment. The factors to be considered in the calculation of collection system efficiency shall include, as a minimum, the saturated hydraulic conductivity of the liner, the liner thickness, the saturated hydraulic conductivity of the leachate collection system, the leachate collection system porosity, the base slope of the liner and leachate collection and removal system interface, the maximum flow distance across the liner and leachate collection and removal system interface to the nearest leachate collection pipe, and the estimated leachate generation quantity as computed in accordance with the requirements of the preceding subparagraph; and,

(c) Information gained from the collection efficiency calculations required in the preceding two paragraphs used to predict the static head of leachate on the liners, volume of leachate to be collected, and the volume of leachate that may permeate through the entire liner system on a monthly basis. This assessment shall also address the amount of leachate expected to be found in the leachate collection and removal system in gallons per acre per day;

(8) Include a design of the leachate storage facility based upon the leachate generation calculation. The design capacity for the leachate storage facility shall be based on the proposed leachate disposal method that allows sufficient lead time for either:

(a) Development of a separate set of engineering reports, plans and specifications for the construction and operation of a leachate treatment facility on-site and to obtain approval of this document before any discharge from the leachate storage facility; or,

(b) Development of a plan to handle leachate destined for off-site treatment at a wastewater treatment facility, and to ensure that the amount of leachate stored on-site is not in excess of the storage capacity available. This plan shall include a legal document (contract, local permit, etc.) certifying acceptance of leachate from the operator of the wastewater treatment facility with all conditions stipulated by the operator of the wastewater treatment facility and all such stipulations addressed in the operations plan;

(9) Include a Construction Plan describing how the landfill will fulfill the requirements of protecting human health and the environment. The plan shall be presented in a manner sufficiently clear and comprehensive for use by the landfill's operator during the life of the landfill. It shall depict the fill progression with respect to site life and shall:

(a) Describe the site's preparation and fill progression for the life of the site in terms of method, depth, location and sequence;

(b) Contain a method of elevation control for the operator including the location and description of the permanent surveying benchmark at the site;

(c) Contain a fill progression discussion describing the placement and compacted thickness of daily, intermediate and final cover;

(d) For soils excavated during construction, identify the stockpile location and volume of soils; and,

(e) Contain a description of stormwater diversion from leachate collection system in areas of constructed cells that have not had waste placement;

(10) Include an Operation and Maintenance Report prepared to demonstrate how the landfill will meet all the operational requirements. This report shall include, at a minimum, the following:

(a) A description of the project's personnel requirements, stating personnel responsibilities and duties including discussions for training and lines of authority at the landfill;

(b) A description of all machinery and equipment to be used at the landfill, their authorized uses, and safety features;

(c) A description of the operational controls, including but not limited to, signs, hours and days of operation, landfill usage rules and regulations, and traffic flow controls;

(d) A description of the anticipated solid waste to be received per day, specifying the quantities received in tons per day, the fill progression of the landfill, and the method of solid waste placement and compaction, and the anticipated in-place density;

(e) A description of the landfill's solid waste receiving process, including inspection of incoming loads, identification of any waste streams to be excluded, and those wastes to receive special handling, or to require treatment before receipt, and a copy of the Special Waste Analysis and Implementation Plan (SWAIP);

(f) A description of the cover material management plan, specifying the types of cover material (daily, intermediate, and final), identifying the quantities required and sources for each cover material by type, including the method of cover material placement, compaction, and the anticipated density;

(g) A description of the project's gas monitoring program that discusses explosive gas generation at the landfill and the controls used to ensure that gas generated at the landfill will not create a hazard to health, safety, or property;

(h) A description of how winter and inclement weather operations will be conducted; and,

(i) If applicable, a description of the operation of a convenience station at the landfill for smaller private vehicles to unload refuse at an area other than the landfill's working face;

(11) Contain a Stabilization Plan. Measures shall be taken within 30 days of establishing soil stockpiles to stabilize the stockpiles not in active use. The Stabilization Plan shall address adequate seeding or other erosion control measures of the site and:

(a) Identify and locate existing vegetation to be retained and proposed vegetation to be used for cover, soil stockpiles, and other purposes;

(b) If appropriate, provide a seeding and planting schedule, including the identification of the rationale for the seed mixture choice and fertilization and procedures for seed application, mulching, and maintenance; and,

(c) Describe the planting plan and schedule which identifies plants to be used consistent with future use proposals;

(12) Include a Quality Assurance/Quality Control (QA/QC) Report prepared in accordance with accepted QA/QC practices. This report shall address the construction requirements set forth in this Part for each phase of construction and shall include, but not be limited to:

(a) A delineation of the QA/QC management organization, including the chain of command of the QA/QC inspectors and contractors;

(b) A description of the required level of experience and training for the contractor, his crew, and QA/QC inspectors for every major phase of construction, in sufficient detail to demonstrate that the installation methods and procedures required in this document are properly implemented; and,

(c) A description of the QA/QC testing protocols for every major phase of construction, including, but not limited to, the base liner system, leachate collection system, and final cover system. The QA/QC testing protocol shall include at a minimum: the frequency of inspection; field testing; sampling for laboratory testing, the sampling and field testing procedures and equipment to be utilized; the calibration of field testing equipment, the frequency of performance audits; the sampling size; the soils or geotechnical laboratory to be used; the laboratory procedures to be utilized; the calibration of laboratory equipment and QA/QC of laboratory procedures, the limits for test failure; and, a description of the corrective procedures to be used upon test failure;

(13) Include a Contingency Plan that addresses an organized, planned and coordinated, technically and financially feasible course of action to be taken in responding to contingencies during the construction and operation of the landfill. The plan shall provide a description of the criteria to be utilized in evaluating deficiencies, and selecting and implementing corrective actions. The plan shall, at a minimum, address:

(a) Procedures for responding to deficiencies during the construction phase resulting from circumstances including, but not limited to, inclement weather, defective materials or construction inconsistent with specifications as demonstrated by quality control testing;

(b) Actions to be taken during operation of the landfill with respect to: personnel and user safety; on-site personal injury; fires; explosive landfill gases detected on site; dust; litter; odor; noise; equipment breakdown; unusual traffic conditions; vectors; disposition of unapproved wastes; receipt of unauthorized wastes; releases of hazardous or toxic materials; groundwater and surface water contamination which may include public water supply contamination as a result of an accidental spill; and, the occurrence of the leachate storage facility being at or above capacity; and,

(c) Procedures to be used in response to: tank and surface impoundment spills or leakage, including removal of the waste and repair of such structures; and, the inability of the approved leachate treatment facility to accept leachate from the landfill for an indefinite period of time;

(14) Include a Groundwater Monitoring Plan. Upon obtaining approval of the investigations performed to satisfy the landfill siting study, a groundwater monitoring plan shall be submitted to the Department for review and approval. The groundwater monitoring plan shall detail the activities to be performed to ensure compliance with the requirements of Section 258.51., Section 258.53., and Section 258.54.;

(15) Include a Closure Plan in the permit application that details the activities to be performed to satisfy the requirements of Section 258.60.; and,

(16) Include a Post-closure Plan that details the activities to be performed to satisfy the requirements of Section 258.61.

c. South Carolina Coastal Zone Management Plan. The proposed landfill project shall be consistent with the South Carolina Coastal Zone Management Plan, if the landfill is located in the coastal zone as defined in accordance with the Coastal Zone Management Act.

d. Leachate Recirculation. All landfills proposing leachate recirculation shall comply with the requirements outlined in Subpart I below.

Subpart I. Leachate Recirculation.

1. Leachate recirculation at Class Three Landfills shall be limited to facilities which meet the following criteria:

a. Leachate recirculation shall be allowed only in facilities that were designed and constructed with a minimum of a composite liner system or equivalent, and that comply with all requirements for a Class 3 Landfill.

b. Leachate recirculation shall be allowed only in facilities which have a leachate collection system capable of maintaining less than one foot of leachate head on the liner system at all times.

c. Leachate and gas condensate collected from the facility shall be the only liquids allowed for recirculation back into the landfill.

d. Leachate recirculation will not be allowed in an area of the footprint which exhibits evidence of significant leakage of the liner system. A buffer approved by the Department shall be maintained between the suspected leaking area and the area of leachate recirculation.

e. Leachate recirculation shall be allowed only at facilities which are designed and constructed to have final slopes which are no steeper than three to one.

f. The Class Three Landfill shall have sufficient storage capacity onsite to handle all leachate generated by the facility in the event leachate recirculation activities are suspended.

g. Contracts to handle the total leachate generated by the facility, or approved and permitted onsite treatment facilities capable of handling all leachate generated by the facility shall be maintained at all Class Three Landfills performing leachate recirculation.

h. The permittee shall have adequate landfill gas control measures in place at the start of leachate recirculation to control the migration of methane and to control the presence of any odors associated with leachate recirculation.

i. A minimum thickness of 30 feet of waste shall be placed in a new cell before leachate recirculation can begin.

2. Class Three landfills performing leachate recirculation shall maintain the following buffer distances from facility side slopes:

a. If leachate is applied to the landfill by way of spraying the leachate at the working face, at a minimum, a 50 foot buffer shall be maintained at all times.

b. If leachate is applied to the landfill by way of pumping into a trench system, at a minimum, a 100 foot buffer shall be maintained at all times.

c. If leachate is applied to the landfill by way of injecting the leachate into vertical wells installed into the waste, at a minimum, a 100 foot buffer shall be maintained at all times.

d. Other methods of leachate recirculation into the facility shall have buffer zones from side slopes approved by the Department.

e. The Department may require additional buffer distances should evidence exist that the current buffer zones are not sufficient to protect stability of the landfill, to prevent the outbreak of leachate seeps, or to otherwise protect human health and the environment.

3. Approval to perform leachate recirculation shall be requested by the facility and approved by the Department on an annual basis. Upon a request for annual renewal of approval to leachate recirculate, the facility shall submit to the Department the following information in the form of an annual report:

- a. Analytical results from leachate testing for the parameters specified in Appendix VI;
- b. A summary of daily leachate recirculation rates along with injection locations;
- c. Monthly leachate recirculation system inspection records, training procedures, and notification procedures;
- d. Monthly landfill leachate and gas generation rate (if applicable) results; and,
- e. Any requests for modification to the leachate recirculation system.

4. If problems associated with leachate recirculation are identified, the permittee shall:

- a. Take all steps necessary to ensure protection of human health and the environment; and,
- b. Within seven days of detection of a problem with leachate recirculation, place in the operating record and submit to the Department a copy of all actions taken to remedy the problem, and any proposed changes to the leachate recirculation system to prevent future problems.

5. Engineering Report. In addition to the permitting requirements outlined for Class Three Landfills in this Part, the permit application shall contain, at a minimum, the following:

a. Engineering drawings with detailed plans of the landfill that clearly show in plan and cross-sectional views the following: each leachate injection well; pipe lines; pipe inverts; drainage envelopes; manholes; cleanouts; valves; sumps; other devices as needed for leachate injection and monitoring, if applicable; and, a proposed waste saturation profile;

b. An engineering report containing a description of the existing site conditions and an analysis of the proposed landfill. The report shall:

(1) Contain design calculations using waste shear strength at 100% saturation that demonstrate that all containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site. Class Three landfills shall have a minimum 1.7 safety factor against failure, where the soil conditions are complex and when available strength data do not provide a consistent, complete, or logical picture of the strength characteristics. Where the soil conditions are uniform and high quality strength data provides a consistent, complete, and logical picture of the strength characteristics as determined by the Department, a minimum 1.2 safety factor against failure shall be used.

(2) Specify the leachate application rate of the landfill in gallons per day, specify the current leachate generation rates, and list the number, types, and specifications of all necessary machinery and equipment needed to effectively operate the application system at the landfill.

(3) Contain liner and leachate collection system efficiencies calculated using an appropriate analytical or numerical assessment. The factors to be considered in the calculation of collection system efficiency shall include, at a minimum, the saturated hydraulic conductivity of the liner, the liner thickness, the saturated hydraulic conductivity of the leachate collection system, the leachate collection system porosity, the base slope of the liner and leachate collection and removal system interface, the maximum flow distance across the liner and leachate collection and removal system interface to the nearest leachate collection pipe, the estimated leachate generation, including both natural quantity and the approved injection rate. The estimated leachate generation shall be used to predict the static head of leachate on the liners, volume of leachate to be collected, and the volume of leachate that may permeate through the entire liner system on a monthly basis. This assessment shall also address the amount of leachate expected to be found in the leachate collection and removal system in gallons per acre per day.

(4) Contain a leachate recirculation operation and maintenance report for the landfill that includes, at a minimum, the following:

- (a) A description of the project's personnel requirements, stating personnel responsibilities and duties including discussions for training and lines of authority at the landfill; and,
- (b) A description of all machinery and equipment to be used at the landfill for leachate recirculation, their authorized uses, and safety features.
- (5) Contain a contingency plan discussing the course of action to be taken in responding to fires, leachate seeps, leachate releases, and other pertinent situations.
- (6) Contain a description of the method for collecting and controlling landfill gases based on calculations of the estimated landfill gas generation during life of the landfill.
- (7) Contain a demonstration of adequate storage capacity for all leachate generated at the site.
- (8) Contain analytical results from leachate testing for the parameters specified in Appendix VI. prior to the start of leachate recirculation at the site.

Subpart J. Permit Conditions and Permit Review.

1. Application forms for permits shall be provided by the Department and shall be submitted with sufficient detail to support a judgment that operation of the disposal system will not violate the laws and regulations of the State of South Carolina. The application shall be signed by the permittee of the Class Three landfill. The approved application and associated plans and drawings shall be an enforceable part of the permit. Permits shall be effective for the design and operational life of the facility.
2. Prior to issuance of a permit for major modifications, as determined by the Department, and for new construction, the Department will make the draft permit available for public review and comment pursuant to Part I, Section D of this regulation.
3. The Department shall review the permit for each Class Three landfill at least once every five years, unless otherwise specified by the Department. Upon notification from the Department, the landfill shall submit to the Department a topographic survey map of the site that shows the contours at the beginning and the end of the period since the last permit review.
 - a. If, upon review, the Department finds that material or substantial violations of the permit demonstrate the permittee's disregard for, or inability to comply with, applicable laws, regulations, or requirements, and would make continuation of this permit not in the best interests of human health and safety or the environment, the Department may, after a hearing, amend or revoke the permit, as appropriate and necessary. When a permit is reviewed, the Department shall include additional limitations, standards, or conditions when the technical limitations, standards, or regulations on which the original permit was based have been changed by statute or amended by regulation.
 - b. The Department may amend or attach conditions to a permit when:
 - (1) There is a significant change in the manner and scope of operation which may require new or additional permit conditions or safeguards to protect human health and safety and the environment;
 - (2) The investigation has shown the need for additional equipment, construction, procedures, and testing to ensure the protection of human health and safety and the environment; and,
 - (3) The amendment is necessary to meet changes in applicable regulatory requirements.
4. Any permits issued pursuant to this regulation shall not be valid after a period of twelve (12) months from the effective date of the permit, if construction of the facility has not begun by the end of this period unless granted a variance by the Department.

Subpart K. Transfer of Ownership. The Department may, upon written request, transfer a permit to a new permittee where no other change in the permit is necessary pursuant to Part I, F.2.c. of this regulation.

HISTORY: Added by State Register Volume 32, Issue No. 5, eff May 23, 2008. Amended by SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

Appendix I. ACCEPTABLE WASTE FOR CLASS TWO LANDFILLS

The following types of waste have been determined by the Department to be environmentally safe and may be accepted at Class Two Landfills unless specifically prohibited by the Department. Acceptable

wastes may be generated by construction, demolition, land-clearing, industrial, and/or manufacturing activities, and/or obtained from segregated commercial waste. However, any of the materials listed in this appendix that have been contaminated by any hazardous constituent listed in the S.C. Hazardous Waste Management Regulations 61–79.261, or petroleum products, are prohibited from disposal at a Class Two Landfill.

Acceptable Land-Clearing Debris Such As:

- | | |
|----------------------------------|---------------|
| . brush & limbs | . root mats |
| . earthen material, e.g., clays, | . top soil |
| sands, gravels, & silts | . tree stumps |
| . logs | . vegetation |
| . rock | |

Acceptable Debris Such As:

- | | |
|---|--|
| . asbestos-containing material ² | . other items physically attached to structure, |
| . bricks & masonry blocks | e.g., signs, mailboxes, awning, vinyl siding |
| . cardboard | . other structural fabrics |
| . dry paint cans | . packaging material |
| . dry caulking tubes | . painted waste (includes lead-based paint) |
| . fiberglass matting | . pallets & crates |
| . floor covering | . pipes |
| . glass | . plaster & plasterboard |
| . glass wire (optical fiber) | . polyfiberglass (highly polished, cured material used for shower stalls, roofing, etc.) |
| . hardened asphaltic concrete ³ | . shingles & roofing materials |
| . hardened cement | . structural steel |
| . hardened concrete (may include re-bar) | |
| . insulation material | . tile (floor, wall & ceiling) |
| . lumber (includes treated lumber) | . tires ⁴ |
| . mirrors | . tubing |
| | . wall coverings |

Acceptable Brown Goods:

- | | |
|--|---------------------------------------|
| . box springs | . furniture including lawn furniture: |
| . mattresses | - laminated |
| . wooden swing sets | - metal ⁵ |
| . nonmotorized bulky outdoor children's toys | - plastic |
| | - PVC |
| | - vinyl |
| | - wooden |

Animal Carcasses Acceptable Under Following Conditions:

. Animal carcasses shall be buried in a separate designated area. The facility shall submit to the Department a written request to dispose of animal carcasses including a plan that shows the portion of

² Friable and nonfriable asbestos-containing material shall be disposed in a designated area and covered immediately upon receipt with at least six inches (6") of acceptable material. Prior to disposal of asbestos-containing material, the generator of the asbestos waste shall obtain a "permission for disposal" letter from the Department's Bureau of Air Quality (BAQ) and submit this letter to the landfill. All landfills accepting asbestos-containing material for disposal are subject to the BAQ regulation 61–86.1 Standards of Performance for Asbestos Abatement Operations, and the National Emissions Standards for Hazardous Air Pollutants[40CFR61, Subpart M;]

³ Tar sealant material is not acceptable.

⁴ Tires shall be reduced in size by a minimum of one-eighth the size of the original tire prior to landfill disposal.

⁵ The Department recommends that all metal furniture be recycled if feasible.

the landfill to be used for this type of disposal. The permit will be modified to reflect the designated disposal area, and;

. Animal carcasses shall be buried and covered with at least twelve inches (12") of dirt immediately upon receipt.

. Hydrated lime shall be added to the carcass and surrounding area before cover is applied to control bacterial growth and odor.

. Mass kill burial shall not be acceptable at Class Two Landfills unless approved by the Department prior to disposal.

HISTORY: Added by State Register Volume 32, Issue No. 5, eff May 23, 2008.

Appendix II. UNACCEPTABLE WASTE FOR CLASS TWO LANDFILLS

The following types of waste have been determined to pose a potential threat to the environment and shall not be accepted at Class Two Landfills. Wastes are considered to be contaminated if a waste has come into contact with and maintains a residue or characteristic of the contaminated materials as described herein.

Any Waste That Has Been Contaminated by Petroleum Products Such As:

- | | |
|----------------------------|------------------------|
| . absorbent (vermiculite) | . paper towels & rags |
| . concrete | . pipes |
| . containers | . soil |
| . filters (oil, etc.) | . storage tanks |
| . mechanical/machine parts | . tar sealant material |

Any Waste That Has Been Contaminated by Polychlorinated Biphenyls (PCBs) Such As:

- | | |
|------------------------------------|-------------------------|
| . any waste that has come in | . electrical components |
| contact with any liquid-containing | . lighting ballasts |
| PCBs | |
| . capacitors | . transformers |

Any Waste That Has Been Contaminated by Organic Chemicals or Solvents (industrial plants, chemical plants, laboratories, construction sites, etc.) Such As:

- | | |
|---------------------------------|---|
| . absorbent | . mechanical/machine parts (valves, etc.) |
| . adhesives | . paint thinner |
| . caulking compounds | . pipes |
| . cement | . pumps |
| . containers (packaging) | . soil |
| . filters | . storage tanks |
| . flooring (wood, carpet, etc.) | . tar |
| . glazing compound | . vats |

Any Waste That Has Been Contaminated by Preservatives, (pentachlorophenol & creosote) Such As:

- | | |
|----------------------------|-----------------|
| . containers | . railroad ties |
| . mechanical parts used in | . soil |
| manufacturing processes | . utility poles |

Any Waste That Has Been Contaminated by Pesticides/Herbicides Such As:

- | | |
|----------------------------------|-----------------------|
| . concrete | . pallets & crates |
| . containers (packaging) | . soil |
| . equipment used for application | . vats |
| . mechanical/machine parts | . wood (storage area) |

Miscellaneous Waste Such As:

- . lamps ⁶
- . liquid waste (paint, paint thinner, etc.)
- . unpolished fiberglass (Bondo)
- . wastes/substances determined by the Department to be unacceptable

Cathode Ray Tubes (CRTs) and Electronic Equipment Such As:

- . cameras
- . compact discs (CDs)
- . computers
- . computer monitors
- . communication & navigation equipment
- . Digital Versatile Disc (DVDs)
- . displays
- . hand-held video game machines
- . mainframes
- . microwave ovens
- . personal digital assistants (PDAs)
- . radios
- . stereos
- . televisions
- . test equipment (oscilloscopes, etc.)
- . video cassette recorders (VCRs)
- . video game machines

HISTORY: Added by State Register Volume 32, Issue No. 5, eff May 23, 2008.

APPENDIX III. CONSTITUENTS FOR DETECTION MONITORING FOR CLASS TWO LANDFILLS

Common name	CAS RN
pH	
Specific Conductance	
Temperature	

Inorganic Constituents:

(1) Arsenic	(Total)
(2) Barium	(Total)
(3) Cadmium	(Total)
(4) Chromium	(Total)
(5) Lead	(Total)
(6) Mercury	(Total)
(7) Selenium	(Total)
(8) Silver	(Total)
(9) Chloride	(Total)
(10) Nitrate	(Total)
(11) Sulfate	(Total)

Organic Constituents:

(12) Benzene	71-43-2
(13) Carbon tetrachloride	56-23-5
(14) Chlorobenzene	108-90-7
(15) Chloroform; Trichloromethane	67-66-3
(16) 1,1-Dichloroethane; Ethylidene chloride	75-34-3
(17) 1,2-Dichloroethane; Ethylene dichloride	107-06-2
(18) 1,1-Dichloroethylene; 1,1-Dichloroethene; Vinylidene chloride	75-35-4
(19) cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene	156-59-2
(20) trans-1,2-Dichloroethylene; trans-1,2-Dichloroethene	156-60-5
(21) Ethylbenzene	100-41-4
(22) Methylene chloride	75-09-2
(23) Tetrachloroethylene; Tetrachloroethene; Perchloroethylene	127-18-4
(24) Toluene	108-88-3
(25) 1,1,1-Trichloroethane; Methylchloroform	71-55-6
(26) 1,1,2-Trichloroethane	79-00-5
(27) Trichloroethylene; Trichloroethene	79-01-6
(28) Vinyl chloride	75-01-4
(29) Xylenes	1330-20-7

⁶ Fluorescent lamps and high intensity discharge (HID) lamps such as metal halide and mercury vapor lamps.

HISTORY: Added by State Register Volume 32, Issue No. 5, eff May 23, 2008.

Appendix IV. CONSTITUENTS FOR DETECTION MONITORING FOR CLASS THREE LANDFILLS

<u>Common name</u> ⁷	<u>CAS RN</u> ⁸
pH	
Specific Conductance	
Inorganic Constituents:	
(1) Antimony	(Total)
(2) Arsenic	(Total)
(3) Barium	(Total)
(4) Beryllium	(Total)
(5) Cadmium	(Total)
(6) Chromium	(Total)
(7) Cobalt	(Total)
(8) Copper	(Total)
(9) Lead	(Total)
(10) Nickel	(Total)
(11) Selenium	(Total)
(12) Silver	(Total)
(13) Thallium	(Total)
(14) Vanadium	(Total)
(15) Zinc	(Total)
Organic Constituents:	
(16) Acetone	67-64-1
(17) Acrylonitrile	107-13-1
(18) Benzene	71-43-2
(19) Bromochloromethane	74-97-5
(20) Bromodichloromethane	75-27-4
(21) Bromoform; Tribromomethane	75-25-2
(22) Carbon disulfide	75-15-0
(23) Carbon tetrachloride	56-23-5
(24) Chlorobenzene	108-90-7
(25) Chloroethane; Ethyl chloride	75-00-3
(26) Chloroform; Trichloromethane	67-66-3
(27) Dibromochloromethane; Chlorodibromomethane	124-48-1
(28) 1,2-Dibromo-3-chloropropane; DBCP	96-12-8
(29) 1,2-Dibromoethane; Ethylene dibromide; EDB	106-93-4
(30) o-Dichlorobenzene; 1,2-Dichlorobenzene	95-50-1
(31) p-Dichlorobenzene; 1,4-Dichlorobenzene	106-46-7
(32) trans-1,4-Dichloro-2-butene	110-57-6
(33) 1,1-Dichloroethane; Ethylidene chloride	75-34-3
(34) 1,2-Dichloroethane; Ethylene dichloride	107-06-2
(35) 1,1-Dichloroethylene; 1,1-Dichloroethene; Vinylidene chloride	75-35-4
(36) cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene	156-59-2
(37) trans-1,2-Dichloroethylene; trans-1,2-Dichloroethene	156-60-5
(38) 1,2-Dichloropropane; Propylene dichloride	78-87-5
(39) cis-1,3-Dichloropropene	10061-01-5
(40) trans-1,3-Dichloropropene	10061-02-6
(41) Ethylbenzene	100-41-4
(42) 2-Hexanone; Methyl butyl ketone	591-78-6
(43) Methyl bromide; Bromomethane	74-83-9
(44) Methyl chloride; Chloromethane	74-87-3
(45) Methylene bromide; Dibromomethane	74-95-3

⁷ Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

⁸ Chemical Abstracts Service registry number. Where "Total" is entered, all species in the ground water that contain this element are included.

(46)	Methylene chloride; Dichloromethane	75-09-2
(47)	Methyl ethyl ketone; MEK; 2-Butanone	78-93-3
(48)	Methyl iodide; Iodomethane	74-88-4
(49)	4-Methyl-2-pentanone; Methyl isobutyl ketone	108-10-1
(50)	Styrene	100-42-5
(51)	1,1,1,2-Tetrachloroethane	630-20-6
(52)	1,1,2,2-Tetrachloroethane	79-34-5
(53)	Tetrachloroethylene; Tetrachloroethene; Perchloroethylene	127-18-4
(54)	Toluene	108-88-3
(55)	1,1,1-Trichloroethane; Methylchloroform	71-55-6
(56)	1,1,2-Trichloroethane	79-00-5
(57)	Trichloroethylene; Trichloroethene	79-01-6
(58)	Trichlorofluoromethane; CFC-11	75-69-4
(59)	1,2,3-Trichloropropane	96-18-4
(60)	Vinyl acetate	108-05-4
(61)	Vinyl chloride	75-01-4
(62)	Xylenes	1330-20-7

HISTORY: Added by State Register Volume 32, Issue No. 5, eff May 23, 2008.

Appendix V. LIST OF HAZARDOUS INORGANIC AND ORGANIC CONSTITUENTS

Common name ⁹	CAS RN ¹⁰
Acenaphthene	83-32-9
Acenaphthylene	208-96-8
Acetone	67-64-1
Acetonitrile; Methyl cyanide	75-05-8
Acetophenone	98-86-2
2-Acetylaminofluorene; 2-AAF.	53-96-3
Acrolein	107-02-8
Acrylonitrile	107-13-1
Aldrin	309-00-2
Allyl chloride	107-05-1
4-Aminobiphenyl	92-67-1
Anthracene	120-12-7
Antimony	(Total)
Arsenic	(Total)
Barium	(Total)
Benzene	71-43-2
Benzo[a]anthracene; Benzanthracene	56-55-3
Benzo[b]fluoranthene	205-99-2
Benzo[k]fluoranthene	207-08-9
Benzo[ghi]perylene	191-24-2
Benzo[a]pyrene	50-32-8
Benzyl alcohol	100-51-6
Beryllium	(Total)
alpha-BHC	319-84-6
beta-BHC	319-85-7
delta-BHC	319-86-8
gamma-BHC; Lindane	58-89-9
Bis(2-chloroethoxy)methane	111-91-1
Bis(2-chloroethyl) ether; Dichloroethyl ether	111-44-4
Bis-(2-chloro-1-methylethyl) ether; 2,2[prime]-Dichlorodiisopropyl ether; DCIP. ¹¹	108-60-1
Bis(2-ethylhexyl) phthalate	117-81-7

⁹ Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

¹⁰ Chemical Abstracts Service registry number. Where "Total" is entered, all species in the ground water that contain this element are included.

¹¹ This substance is often called bis(2-chloroisopropyl) ether, the name Chemical Abstracts Service applies to its noncommercial isomer, propane, 2,2[sec]-oxybis[2-chloro- (CAS RN 39638-32-9).

Bromochloromethane; Chlorobromomethane	74-97-5
Bromodichloromethane; Dibromochloromethane	75-27-4
Bromoform; Tribromomethane	75-25-2
4-Bromophenyl phenyl ether	101-55-3
Butyl benzyl phthalate; Benzyl butyl phthalate	85-68-7
Cadmium	(Total)
Carbon disulfide	75-15-0
Carbon tetrachloride	56-23-5
Chlordane	footnote ¹²
p-Chloroaniline	106-47-8
Chlorobenzene	108-90-7
Chlorobenzilate	510-15-6
p-Chloro-m-cresol; 4-Chloro-3-methylphenol	59-50-7
Chloroethane; Ethyl chloride	75-00-3
Chloroform; Trichloromethane	67-66-3
2-Chloronaphthalene	91-58-7
2-Chlorophenol	95-57-8
4-Chlorophenyl phenyl ether	7005-72-3
Chloroprene	126-99-8
Chromium	(Total)
Chrysene	218-01-9
Cobalt	(Total)
Copper	(Total)
m-Cresol; 3-Methylphenol	108-39-4
o-Cresol; 2-Methylphenol	95-48-7
p-Cresol; 4-Methylphenol	106-44-5
Cyanide	57-12-5
2,4-D; 2,4-Dichlorophenoxyacetic acid	94-75-7
4,4[prime]-DDD	72-54-8
4,4[prime]-DDE	72-55-9
4,4[prime]-DDT	50-29-3
Diallate	2303-16-4
Dibenz[a,h]anthracene	53-70-3
Dibenzofuran	132-64-9
Dibromochloromethane; Chlorodibromomethane.	124-48-1
1,2-Dibromo-3-chloropropane; DBCP.	96-12-8
1,2-Dibromoethane; Ethylene dibromide; EDB.	106-93-4
Di-n-butyl phthalate	84-74-2
o-Dichlorobenzene; 1,2- Dichlorobenzene.	95-50-1
m-Dichlorobenzene; 1,3- Dichlorobenzene	541-73-1
p-Dichlorobenzene; 1,4- Dichlorobenzene.	106-46-7
3,3[prime]-Dichlorobenzidine	91-94-1
trans-1,4-Dichloro-2-butene	110-57-6
Dichlorodifluoromethane; CFC 12	75-71-8
1,1-Dichloroethane; Ethyldiene chloride	75-34-3
1,2-Dichloroethane; Ethylene dichloride.	107-06-2
1,1-Dichloroethylene; 1,1-Dichloroethene	75-35-4
Vinylidene chloride cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene	156-59-2
trans-1,2-Dichloroethylene trans-1,2-Dichloroethene	156-60-5
2,4-Dichlorophenol	120-83-2
2,6-Dichlorophenol	87-65-0
1,2-Dichloropropane; Propylene dichloride.	78-87-5
1,3-Dichloropropane; Trimethylene dichloride	142-28-9
2,2-Dichloropropane; Isopropylidene chloride	94-20-7
1,1-Dichloropropene	563-58-6
cis-1,3-Dichloropropene	10061-01-5
trans-1,3-Dichloropropene	10061-02-6
Dieldrin	60-57-1
Diethyl phthalate	84-66-2
O,O-Diethyl O-(2-pyrazinyl) phosphorothioate	297-97-2

¹² Chlordane: This entry includes alpha-chlordane (CAS RN 5103-71-9), beta-chlordane (CAS RN 5103-74-2), gamma-chlordane (CAS RN 5566-34-7), and constituents of chlordane (CAS RN 57-74-9 and CAS RN 12789-03-6).

Dimethoate	60-51-5
p-(Dimethylamino)azobenzene	60-11-7
7,12-Dimethylbenz[a]anthracene	57-97-6
3,3[prime]-Dimethylbenzidine	119-93-7
alpha, alpha-Dimethylphenethylamine	122-09-8
2,4-Dimethylphenol; m-Xylenol	105-67-9
Dimethyl phthalate	131-11-3
m-Dinitrobenzene	99-65-0
4,6-Dinitro-o-cresol 4,6-Dinitro-2- methylphenol	534-52-1
2,4-Dinitrophenol	51-28-5
2,4-Dinitrotoluene	121-14-2
2,6-Dinitrotoluene	606-20-2
Dinoseb; DNBP; 2-sec-Butyl-4,6- methylphenol dinitrophenol.	88-85-7
Di-n-octyl phthalate	117-84-0
Diphenylamine	122-39-4
Disulfoton	298-04-4
Endosulfan I	959-98-8
Endosulfan II	33213-65-9
Endosulfan sulfate	1031-07-8
Endrin	72-20-8
Endrin aldehyde	7421-93-4
Ethylbenzene	100-41-4
Ethyl methacrylate	97-63-2
Ethyl methanesulfonate	62-50-0
Famphur	52-85-7
Fluoranthene	206-44-0
Fluorene	86-73-7
Heptachlor	76-44-8
Heptachlor epoxide	1024-57-3
Hexachlorobenzene	118-74-1
Hexachlorobutadiene	87-68-3
Hexachlorocyclopentadiene	77-47-4
Hexachloroethane	67-72-1
Hexachloropropene	1888-71-7
2-Hexanone; Methyl butyl ketone	591-78-6
Indeno(1,2,3-cd)pyrene	193-39-5
Isobutyl alcohol	78-83-1
Isodrin	465-73-6
Isophorone	78-59-1
Isosafrole	120-58-1
Kepone	143-50-0
Lead	(Total)
Mercury	(Total)
Methacrylonitrile	126-98-7
Methapyrilene	91-80-5
Methoxychlor	72-43-5
Methyl bromide; Bromomethane	74-83-9
Methyl chloride; Chloromethane	74-87-3
3-Methylcholanthrene	56-49-5
Methyl ethyl ketone; MEK; 2-Butanone	78-93-3
Methyl iodide; Iodomethane	74-88-4
Methyl methacrylate	80-62-6
Methyl methanesulfonate	66-27-3
2-Methylnaphthalene	91-57-6
Methyl parathion; Parathion methyl	298-00-0
4-Methyl-2-pentanone; Methyl isobutyl ketone	108-10-1
Methylene bromide; Dibromomethane	74-95-3
Methylene chloride; Dichloromethane	75-09-2
Naphthalene	91-20-3
1,4-Naphthoquinone	130-15-4
1-Naphthylamine	134-32-7
2-Naphthylamine	91-59-8
Nickel	(Total)

o-Nitroaniline; 2-Nitroaniline	88-74-4
m-Nitroaniline; 3-Nitroaniline	99-09-2
p-Nitroaniline; 4-Nitroaniline	100-01-6
Nitrobenzene	98-95-3
o-Nitrophenol; 2-Nitrophenol	88-75-5
p-Nitrophenol; 4-Nitrophenol	100-02-7
N-Nitrosodi-n-butylamine	924-16-3
N-Nitrosodiethylamine	55-18-5
N-Nitrosodimethylamine	62-75-9
N-Nitrosodiphenylamine	86-30-6
N-Nitrosodipropylamine; N-Nitroso-N-dipropylamine;. Di-n-propylni- trosamine	621-64-7
N-Nitrosomethylethylamine	10595-95-6
N-Nitrosopiperidine	100-75-4
N-Nitrosopyrrolidine	930-55-2
5-Nitro-o-toluidine	99-55-8
Parathion	56-38-2
Pentachlorobenzene	608-93-5
Pentachloronitrobenzene	82-68-8
Pentachlorophenol	87-86-5
Phenacetin	62-44-2
Phenanthrene	85-01-8
Phenol	108-95-2
p-Phenylenediamine	106-50-3
Phorate	298-02-2
Polychlorinated biphenyls; PCBs;.	Footnote ¹³
Pronamide	23950-58-5
Propionitrile; Ethyl cyanide	107-12-0
Pyrene	129-00-0
Safrole	94-59-7
Selenium	(Total)
Silver	(Total)
Silvex; 2,4,5-TP	93-72-1
Styrene	100-42-5
Sulfide	18496-25-8
2,4,5-T; 2,4,5-Trichlorophenoxyacetic acid	93-76-5
2,3,7,8-TCDD; 2,3,7,8-Tetrachlorodibenzo-p-dioxin	1746-01-6
1,2,4,5-Tetrachlorobenzene	95-94-3
1,1,1,2-Tetrachloroethane	630-20-6
1,1,2,2-Tetrachloroethane	79-34-5
Tetrachloroethylene; Tetrachloroethene; Perchloroethylene	127-18-4
2,3,4,6-Tetrachlorophenol	58-90-2
Thallium	(Total)
Tin	(Total)
Toluene	108-88-3
o-Toluidine	95-53-4
Toxaphene	Footnote ¹⁴
1,2,4-Trichlorobenzene	120-82-1
1,1,1-Trichloroethane; Methylchloroform.	71-55-6
1,1,2-Trichloroethane	79-00-5
Trichloroethylene; Trichloroethene	79-01-6
Trichlorofluoromethane; CFC-11	75-69-4
2,4,5-Trichlorophenol	95-95-4
2,4,6-Trichlorophenol	88-06-2
1,2,3-Trichloropropane	96-18-4
O,O,O-Triethyl phosphorothioate	126-68-1
sym-Trinitrobenzene	99-35-4

¹³ Polychlorinated biphenyls (CAS RN 1336-36-3); this category contains congener chemicals, including constituents of Aroclor 1016 (CAS RN 12674-11-2), Aroclor 1221 (CAS RN 11104-28-2), Aroclor 1232 (CAS RN 11141-16-5), Aroclor 1242 (CAS RN 53469-21-9), Aroclor 1248 (CAS RN 12672-29-6), Aroclor 1254 (CAS RN 11097-69-1), and Aroclor 1260 (CAS RN 11096-82-5).

¹⁴ Toxaphene: This entry includes congener chemicals contained in technical toxaphene (CAS RN 8001-35-2), i.e., chlorinated camphene.

Vanadium	(Total)
Vinyl acetate	108-05-4
Vinyl chloride; Chloroethene	75-01-4
Xylene (total)	Footnote ¹⁵
Zinc	(Total)

HISTORY: Added by State Register Volume 32, Issue No. 5, eff May 23, 2008.

Appendix VI. LEACHATE TESTING PARAMETERS FOR CLASS THREE LAND-FILLS

1. BOD
2. TOC
3. COD
4. Total Suspended Solids
5. TKN Nitrogen
6. Ammonia Nitrogen
7. Nitrate
8. Total Phosphorus
9. Alkalinity as CaCO₃
10. Total Hardness as CaCO₃
11. pH
12. Calcium
13. Magnesium
14. Potassium
15. Sodium
16. Chloride
17. Sulfate
18. Total Iron
19. VOC's Listed in Appendix III

HISTORY: Added by State Register Volume 32, Issue No. 5, eff May 23, 2008.

61-107.20. Solar Energy Systems.

Statutory Authority: Section 5 of Act 119 of 2022

Table of Contents

- A. Applicability.
- B. Definitions
- C. General Provisions
- D. Registration Requirements
- E. Decommissioning Requirements
- F. Financial Assurance
- G. Severability
- H. Violations and Penalties
- A. Applicability.
 1. This regulation establishes procedures, documentation, and other requirements which must be met to operate large solar energy systems.
 2. The requirements of this regulation are not applicable to rooftop solar energy systems or any other solar energy system that does not meet the definition of a large solar energy system.
 3. The requirements of this regulation do not supersede or amend R.61-79, Hazardous Waste Management Regulations, or any other applicable laws, statutes, rules, and regulations.

¹⁵ Xylene (total): This entry includes o-xylene (CAS RN 96-47-6), m-xylene (CAS RN 108-38-3), p-xylene (CAS RN 106-42-3), and unspecified xylenes (dimethylbenzenes) (CAS RN 1330-20-7).

4. The requirements of this regulation do not supersede or amend R.61-107, Solid Waste Management Regulations, or any other applicable laws, statutes, rules, and regulations.

B. Definitions.

1. "Decommission" means the removal and proper disposal of solar energy equipment, facilities, or devices located on real property utilized by or in a large solar energy system. "Decommission" includes the reasonable restoration of the property upon which such solar equipment, facilities, or devices are located, including, but not limited to:

- a. soil stabilization; and
- b. revegetation of the ground cover of the real property disturbed by the installation of such equipment, facilities, or devices.

2. "Department" means the South Carolina Department of Health and Environmental Control.

3. "End-of-life solar panel" means, for the purpose of this regulation, any solar panel, solar energy equipment or other materials that is no longer suitable for its original intended purpose because of wear, damage, or defect.

4. "Existing large solar energy system (system)" means a large solar energy system installed prior to promulgation of this regulation. The system is considered installed if: onsite physical construction has begun, or the owner or operator has entered into contractual obligations for the installation of the system.

5. "Financial assurance mechanism" means, for the purpose of this regulation, a mechanism designed to demonstrate that sufficient funds will be available to meet specific environmental protection needs of a large solar energy system. Available financial assurance mechanisms include cash, insurance, trust funds, surety bonds, letters of credit, certificates of deposit, and financial tests as determined by the Department, per regulation.

6. "Generation" means the act or process of producing waste materials.

7. "Ground-mounted solar energy systems" means a solar energy system that is structurally mounted to the ground.

8. "Hazardous waste" is defined in Section 44-56-20 of the South Carolina Hazardous Waste Management Act and is applicable to this regulation.

9. "Landowner" means a person or corporation who has assumed legal ownership of the property upon which a solar energy system is constructed.

10. "Large solar energy system" means a ground-mounted solar energy system that occupies in excess of thirteen (13) acres.

11. "Operator" means the person or corporation responsible for the overall operation of a solar energy system.

12. "Owner" means the person or corporation who has assumed legal ownership of the solar energy system through the provisions of a contract or other legally binding transfer of ownership.

13. "Person" means an individual, business entity, partnership, limited liability company, corporation, not-for-profit corporation, association, public benefit corporation, or public authority.

14. "Photovoltaic device" means a device that generates electricity directly from sunlight via an electronic process that occurs naturally in certain types of material, such as semiconductors.

15. "Reasonably restored" means to place a solar energy system back into its original state or in accordance with any other applicable contract between the owner and landowner.

16. "Rooftop solar energy system" means a solar energy system that is structurally mounted to the roof of a house, building, or other structure and does not qualify as a large solar energy system.

17. "Solar energy equipment" means electrical material, hardware, inverters, conduit, storage devices, footings, braces, stands or any other equipment to any electric grid equipment associated with the operation of a solar energy system.

18. "Solar energy system" means components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, solar panels and solar energy equipment. The area of a solar energy system includes all the land inside the perimeter of the solar energy system, which extends to any interconnection equipment.

19. "Solar panel" means a photovoltaic device capable of collecting and converting solar energy into electricity.

20. "Solid waste" is defined in Section 44-96-40 of the South Carolina Solid Waste Policy and Management Act and is applicable to this regulation.

C. General Provisions.

1. Large solar energy systems shall comply with all federal, state, and local zoning, land use, and other applicable ordinances which include, but are not limited to, financial assurance requirements from local governments.

2. All solid waste and hazardous waste generated within the operation, routine or unexpected maintenance, or decommissioning of a large solar energy system's operation shall be managed according to all applicable laws, statutes, rules, and regulations.

D. Registration Requirements.

1. Persons intending to operate a new large solar energy system shall submit a completed registration, prior to operation, via a form provided by the Department. The registration includes the following information:

- a. Name of the large solar energy system;
- b. Address and tax map ID number of the property upon which the large solar energy system will be located;
- c. Landowner information which includes name, address, and contact information;
- d. Owner information which includes name, address, and contact information;
- e. Operator information which includes name, address, contact information;
- f. Number of photovoltaic modules;
- g. Number of energy storage system batteries;
- h. Projected date of decommissioning; and
- i. Signed agreement between owner and landowner, which confirms the plan for land restoration after decommissioning.

2. Existing large solar energy systems operating before the effective date of this regulation shall have one hundred eighty (180) calendar days from the regulation's effective date to comply with the provisions of this regulation.

3. Registrations shall be updated every five (5) years from the registration submission date, or with a transfer of ownership, until the site is completely decommissioned.

E. Decommissioning Requirements.

1. Five (5) years prior to a large solar energy system's projected end-of-life, the registrant shall submit to the Department a decommissioning plan for review and approval. The decommissioning plan shall be updated if any changes occur at the facility that require a deviation from the approved decommissioning plan, which includes the cost estimate.

2. Following a continuous twelve (12) month period in which no electricity is generated, the registered owner/operator will have twelve (12) months to complete decommissioning of the large solar energy system, unless otherwise approved by the Department.

3. Decommissioning shall be considered complete once all components of a large solar energy system are removed and properly disposed of, or the property upon which such solar equipment, facilities, or devices are located have been reasonably restored.

4. The decommissioning plan shall include:

- a. A description of the large solar energy system that includes:
 - (1) Total property acreage,
 - (2) Total acreage used for solar panels and accessory equipment,
 - (3) The proposed number of solar panels for decommissioning, and
 - (4) A list of all components of the solar energy system to be properly recycled or disposed of in accordance with the decommissioning plan.

b. A statement of the objective of the decommissioning process. An example of an objective can be the following: to reasonably restore the site to its prior use or to a different use as approved by the owner and landowner;

c. The estimated timeframe it will take to complete the decommissioning process;

d. A description of the tasks involved in decommissioning and the types of equipment that will be required;

e. The registrant shall provide a detailed final decommissioning estimate of the cost of recycling or disposing of all components of the solar energy system, including, but not limited to, solar panels, electrical material, hardware, inverters, conduits, storage devices, footings, braces, stands, or any other appurtenances associated with the operation of a solar energy system. A final decommissioning cost estimate shall provide estimates for third-party costs to properly recycle or dispose of all components of the solar energy system and perform any post-closure care. If applicable, a salvage plan may be included to support proposed salvage values.

f. A financial assurance mechanism that will be used to meet the requirements of the cost estimate.

5. The owner or operator of the large solar energy system shall send a notification to the Department no later than thirty (30) calendar days after the completion of decommissioning.

F. Financial Assurance.

1. Once the Department has approved the decommissioning cost estimate, a financial assurance mechanism payable to the Department shall be submitted to the Department for review and approval.

a. A large solar energy system can satisfy the requirements of this section by submitting proof of compliance with financial assurance requirements from the municipal or local government in which the large solar energy system is located.

b. If the municipal or local government submittal is less than the Department-approved decommissioning cost estimate, the Department will require a greater amount to satisfy the financial assurance requirement.

2. Local governments may also establish or retain financial assurance ordinances that are more stringent than the statewide minimum standards.

3. The mechanism shall be adequate to ensure the satisfactory decommissioning of the large solar energy system and post-closure care as required by this regulation in Section E(4).

4. During the remaining operational life of the large solar energy system, the facility owner/operator shall adjust the decommissioning cost estimate as needed for inflation.

a. The large solar energy system owner/operator may update the financial assurance mechanism as needed to account for salvage value.

b. At any time during its period of operation, the large solar energy system owner/operator shall increase the decommissioning cost estimate and the amount of financial assurance provided if changes to the decommissioning plan or facility conditions increase the maximum cost of decommissioning.

c. At any time during its period of operation, the large solar energy system owner/operator may reduce the amount of financial assurance provided for proper closure if the approved decommissioning cost estimate exceeds the maximum cost of decommissioning. Prior to reducing the amount of financial assurance, the justification for the reduction of the decommissioning cost estimate shall be submitted to the Department for review and approval. Provided the new cost estimate is approved, the owner/operator may then reduce the amount of financial assurance secured.

5. The financial assurance mechanism shall consist of one or more of the following mechanisms: cash, insurance, trust funds, surety bonds, letters of credit, certificates of deposit, and financial tests as determined by the Department per regulation.

6. The mechanism used to demonstrate financial assurance under this section shall ensure that the funds necessary to meet the costs of closure and corrective action for known releases will be available whenever needed. The owner/operator shall provide continuous coverage for corrective action and decommissioning until released from financial assurance requirements by the Department.

7. The Department may take possession of a financial assurance mechanism for failure to complete decommissioning, to complete post-closure care, or to renew or provide alternate acceptable financial assurance.

8. The requirements of this Section apply to all large solar energy systems except those owned and operated by local government, a region comprised of local governments, or state or federal government entities whose debts and liabilities are the debts and liabilities of the state or the United States.

G. Severability.

Should any section, paragraph, sentence, clause, or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

H. Violations and Penalties.

1. The Department may impose reasonable civil penalties on a large solar energy system for each day of violation of the provisions of this regulation, including violation of any Department order or standard.

HISTORY: Added by SCSR 48-5 Doc. No. 5191, eff May 24, 2024.

61-107.279. SOLID WASTE MANAGEMENT: USED OIL.

(Statutory Authority: 1976 Code §§ 44-96-160, 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024)

SUBPART A: Definitions.
SUBPART B: Applicability.
SUBPART C: Standards for Used Oil Generators.
SUBPART D: Standards for Used Oil Collection Centers and Aggregation Points.
SUBPART E: Standards for Used Oil Transporter and Transfer Facilities.
SUBPART F: Standards for Used Oil Processors and Re-refiners.
SUBPART G: Standards for Burners Who Burn Off-Specification Used Oil for Energy Recovery.
SUBPART H: Standards for Used Oil Fuel Marketers.
SUBPART I: Disposal of Used Oil.
SUBPART J: Retail Sales Requirements.
SUBPART K: Monitoring.
SUBPART L: Used Oil Filter Management.
SUBPART M: Penalties.
SUBPART N: Severability.
SUBPART O: Variances.

SUBPART A

Solid Waste Management: Used Oil.

279.1. Definitions.

Terms that are defined in the South Carolina Hazardous Waste Management Regulations R.61-79.260.10, and 261.1, and South Carolina Underground Storage Tank Control Regulations R.61-92.280.12 but are not defined in this regulation have the same meanings when used in this regulation.

a. "Aboveground tank" means a tank used exclusively to store or process used oil that is not an underground storage tank as defined in the South Carolina Underground Storage Tank Control Regulations, R.61-92.280.12.

b. "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

- c. "Department" means the South Carolina Department of Environmental Services.
- d. "Do-it-yourselfer used oil collection center" means any site or facility that accepts/aggregates and stores used oil collected only from household do-it-yourselfers.
- e. "Energy recovery" means the beneficial use, reuse, recycling, or reclamation of solid waste through the use of the waste to recover energy therefrom.
- f. "Existing tank" means a tank that is used for the storage or processing of used oil and that is in operation, or for which installation has commenced on or prior to the effective date of the authorized used oil program for the State in which the tank is located. Installation will be considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin installation of the tank and if either (1) a continuous on-site installation program has begun, or (2) the owner or operator has entered into contractual obligations —which cannot be canceled or modified without substantial loss —for installation of the tank to be completed within a reasonable time.
- g. "Facility" means all contiguous land, structures, other appurtenances and improvements on the land used for treating, storing, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal operational units, including, but not limited to, one or more landfills, surface impoundments, or combination thereof.
- h. "Hazardous substance" means any substance the Environmental Protection Agency (EPA) has designated for special consideration under the Clean Air Act (CAA), Clean Water Act (CWA), or Toxic Substances Control Act (TSCA), and any hazardous waste, as defined.
- i. "Hazardous waste" has the meaning provided in Section 44-56-20 of the South Carolina Hazardous Waste Management Act.
- j. "Hot-drained" means that the oil filter is drained near engine operating temperature and above room temperature.
- k. "Household 'do-it-yourselfer' used oil" means used oil that is derived from households, such as used oil generated by individuals who generate used oil through the maintenance of their personal vehicles.
- l. "Household 'do-it-yourselfer' used oil generator" means an individual who generates household "do-it-yourselfer" used oil.
- m. "Landfill" means a disposal facility or part of a facility where solid waste is placed in or on land, and which is not a land treatment facility, a surface impoundment, or an injection well.
- n. "Motor oil" and "similar lubricants" mean the fraction of crude oil or synthetic oil that is classified for the use in the crankcase, transmission, gearbox, or differential of an internal combustion engine, including automobiles, buses, trucks, lawn mowers and other household power equipment, industrial machinery, and other mechanical devices that derive their power from internal combustion engines. The terms include re-refined oil but do not include heavy greases and specialty industrial or machine oils, such as spindle oils, cutting oils, steam cylinder oils, industrial oils, electrical insulating oils, or solvents which are not sold at retail in this State.
- o. "New tank" means a tank that will be used to store or process used oil and for which installation has commenced after the effective date of this regulation.
- p. "Owner/operator" means the person who owns the land on which a solid waste management facility is located or the person who is responsible for the overall operation of the facility, or both.
- q. "Person" means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.
- r. "Petroleum refining facility" means an establishment primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants, through fractionation, straight distillation of crude oil, re-distillation of unfinished petroleum derivatives, cracking or other processes (i.e., facilities classified as SIC 2911).
- s. "Processing" means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived product. Processing includes, but is not limited to: blending used oil with virgin petroleum products,

blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation and re-refining.

t. “Re-refining distillation bottoms” means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil. The composition of still bottoms varies with column operation and feedstock.

u. “Recycling” means any process by which materials which would otherwise become solid waste, are separated or processed and reused or returned to use in the form of raw materials or products (including composting).

v. “Resource recovery” means the process of obtaining material or energy resources from solid waste which no longer has any useful life in its present form and preparing the waste for recycling.

w. “Tank” means any stationary device, designed to contain an accumulation of used oil which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provides structural support.

x. “Terne plated” means oil filters which are plated with an alloy of tin and lead.

y. “Used oil” means any oil which has been refined from crude or synthetic oil and, as a result of use, storage, or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties, but which may be suitable for further use and may be economically recyclable.

z. “Used oil aggregation point” means any site or facility that accepts, aggregates, and/or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than 55 gallons. Used oil aggregation points may also accept used oil from household do-it-yourselfers.

aa. “Used oil burner” means a facility where used oil not meeting the specification requirements in 279.11 is burned for energy recovery in devices identified in 279.61.a.

bb. “Used oil collection center” means a facility which, in the course of business, accepts used oil for subsequent disposal or recycling. Used oil collection centers may also accept used oil from household do-it-yourselfers.

cc. “Used oil generator” means any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

dd. “Used oil fuel marketer” means any person who conducts either of the following activities:

(i) Directs a shipment of off-specification used oil from their facility to a used oil burner; or

(ii) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in 279.11 of this regulation.

ee. “Used oil processor/re-refiner” means a facility that processes used oil.

ff. “Used oil transfer facility” means any transportation related facility including loading docks, parking areas, storage areas and other areas where shipments of used oil are held for more than 24 hours and not longer than 35 days during the normal course of transportation or prior to an activity performed pursuant to 279.20(b)(2). Transfer facilities that store used oil for more than 35 days are subject to regulation under subpart F of this part.

gg. “Used oil transporter” means any person who transports used oil, any person who collects used oil from more than one generator and transports the collected oil, and owners and operators of used oil transfer facilities. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation but, with the following exception, may not process used oil. Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products or used oil fuel.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995. Amended by SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

SUBPART B
APPLICABILITY.

279.10. Applicability.

a. Except as provided in 279.11, the regulations of this part apply to used oil, and to materials identified in this section as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in R.61-79.261.

b. Mixtures of used oil and hazardous waste.

(1) Listed hazardous waste.

(a) Mixtures of used oil and hazardous waste that are listed in Subpart D of R.61-79.261 are subject to regulation as hazardous waste under R.61-79.260 through 266, 268, 270, and 124, rather than as used oil under this regulation.

(b) Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of R.61-79.261. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of R.61-79.261).

(i) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in 279.24.c, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

(ii) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) reclaimed to the extent possible from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

(2) Mixtures of used oil and hazardous waste that solely exhibit one or more of the hazardous waste characteristics identified in subpart C of R.61-79.261 and mixtures of used oil and hazardous waste that are listed in subpart D solely because they exhibit one or more of the characteristics of hazardous waste identified in subpart C are subject to:

(a) Except as provided in paragraph b.(2)(c) of this regulation, regulation as hazardous waste under R.61-79.260 through 266, 268, 270, and 124 rather than as used oil under this regulation, if the resultant mixture exhibits any characteristics of hazardous waste identified in Subpart C of R.61-79.261; or

(b) Except as specified in paragraph b.(2)(c), regulation as used oil under this regulation, if the resultant mixture does not exhibit any characteristics of hazardous waste identified under Subpart C of R.61-79.261.

(c) Regulation as used oil under this regulation, if the mixture is of used oil and a waste which is hazardous solely because it exhibits the characteristic of ignitability (e.g., ignitable-only mineral spirits) and is not listed in Subpart D of R.61-79.261, provided that the mixture does not exhibit the characteristic of ignitability under R.61-79.261.21.

(3) Mixtures of used oil and conditionally exempt small quantity generator hazardous waste regulated under R.61-79.261.5 are subject to regulation as used oil under this regulation.

c. Materials containing or otherwise contaminated with used oil.

(1) Except as provided in paragraph c.(2) of this section, materials containing or otherwise contaminated with used oil waste from which the used oil has been properly drained or removed to the extent possible such that no visible signs of free-flowing oil remain in or on the solid waste are:

(a) Not used oil and thus not subject to this regulation; and

(b) Solid wastes, and if the materials are listed or identified as hazardous waste, are subject to the hazardous waste regulations R.61-79.260 through 266, 268, 270, and 124.

(2) Materials containing or otherwise contaminated with used oil that are burned for energy recovery are subject to regulation as used oil under this regulation.

(3) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this regulation.

d. Mixtures of used oil with other fuel products.

(1) Except as provided in paragraph d.(2) of this section, mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this regulation.

(2) Mixtures of used oil and diesel fuel mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to this regulation once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of Subpart C of this regulation.

e. Materials derived from used oil.

(1) Materials that are reclaimed from used oil that are used beneficially and are not burned for energy recovery or used in a manner constituting disposal (e.g., re-refined lubricants) are:

(a) Not used oil and thus are not subject to this regulation, and

(b) Not solid wastes and are thus not subject to the hazardous waste regulations of R.61-79.260 through 266, 268, 270, and 124 as provided in R.61-79.261.3(c)(2)(i).

(2) Materials produced from used oil that are burned for energy recovery (e.g., used oil fuels) are subject to regulation as used oil under this regulation.

(3) Except as provided in paragraph e.(4) of this section, materials derived from used oil that are disposed of or used in a manner constituting disposal are:

(a) Not used oil and thus are not subject to this regulation, and

(b) Are solid wastes and thus are subject to the hazardous waste regulations of R.61-79.260 through 266, 268, 270, and 124 if the materials are listed or identified as hazardous waste.

(4) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this regulation.

f. Wastewater, the discharge of which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act (including wastewaters at facilities which have eliminated the discharge of wastewater), contaminated with de minimis quantities of used oil are not subject to the requirements of this regulation. For purposes of this paragraph, "de minimis" quantities of used oils are defined as small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception will not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.

g. Used oil introduced into crude oil pipelines or a petroleum refining facility.

(1) Used oil mixed with crude oil or natural gas liquids (e.g., in a production separator or crude oil stock tank) for insertion into a crude oil pipeline is exempt from the requirements of this part. The used oil is subject to the requirements of this part prior to the mixing of used oil with crude oil or natural gas liquids.

(2) Mixtures of used oil and crude oil or natural gas liquids containing less than 1% used oil that are being stored or transported to a crude oil pipeline or petroleum refining facility for insertion into the refining process at a point prior to crude distillation or catalytic cracking are exempt from the requirements of this regulation.

(3) Used oil that is inserted into the petroleum refining facility process before crude distillation or catalytic cracking without prior mixing with crude oil constitutes less than 1% of the crude oil feed to any petroleum refining facility process unit at any given time. Prior to insertion into the petroleum refining facility process, the used oil is subject to the requirements of this part.

(4) Except as provided in paragraph (g)(5) of this section, used oil that is introduced into a petroleum refining facility process after crude distillation or a catalytic cracking is exempt from the requirements of this part only if the used oil meets the specification of R.61-79.11. Prior to insertion

into the petroleum refining facility process, the used oil is subject to the requirements of the regulation.

(5) Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as part of routine process operations at a petroleum refining facility and inserted into the petroleum refining facility process is exempt from the requirements of this part. This exemption does not extend to used oil which is intentionally introduced into a hydrocarbon recovery system (e.g. by pouring collected used oil into the wastewater treatment system).

(6) Tank bottoms from stock tanks containing exempt mixtures of used oil and crude oil or natural gas liquids are exempt from the requirements of this part.

h. Used oil produced on vessels from normal shipboard operations is not subject to this regulation until it is transported ashore.

i. Used oil containing PCBs. Used oil containing PCBs (as defined in 40 CFR 761.3) at any concentration less than 50 ppm is subject to the requirements of this regulation unless, because of dilution, it is regulated under 40 CFR Part 761 as a used oil containing PCBs at 50 ppm or greater. PCB-containing used oil subject to the requirements of this regulation may also be subject to the prohibitions and requirements found at 40 CFR Part 761, including 761.20(d) and (e). Used oil containing PCBs at concentrations of 50 ppm or greater is not subject to the requirements of this regulation, but is subject to regulation under 40 CFR Part 761. No person may avoid these provisions by diluting used oil containing PCBs, unless otherwise specifically provided for in this regulation or 40 CFR Part 761.

j. All used oil fuel marketer permits issued by the Department prior to the effective date of this regulation shall terminate on the effective date of this regulation.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995. Amended by State Register Volume 40, Issue No. 6, Doc. No. 4613, eff June 24, 2016.

279.11. Used Oil Specifications.

Used oil burned, and any fuel produced from used oil by processing, blending, or other treatment, is subject to regulation under this regulation unless it is shown not to exceed any of the allowable levels of the constituents and properties in the specification shown in Table 1 below. Once used oil that is to be burned has been shown not to exceed any specification and the person making that showing complies with 279.72, 279.73, and 279.74.b., the used oil is no longer subject to this regulation.

Table: USED OIL NOT EXCEEDING ANY ALLOWABLE LEVEL SHOWN BELOW IS NOT SUBJECT TO THIS PART WHEN BURNED FOR ENERGY RECOVERY ¹

Constituent/property	Allowable level
Arsenic	5 ppm maximum.
Cadmium	2 ppm maximum.
Chromium	10 ppm maximum.
Lead	100 ppm maximum.
Flash point	100 degrees F minimum.
Total halogens	4,000 ppm maximum. ²

Note: Applicable standards for the burning of used oil containing PCBs are imposed by 40 CFR 761.20(e)

¹ The allowable levels do not apply to mixtures of used oil and hazardous waste that continue to be regulated as hazardous waste (see 279.10(b))

² Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under 279.10.b.(1). Such used oil is subject to Subpart H of R.61-79.266 rather than this regulation when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995. Amended by State Register Volume 40, Issue No. 6, Doc. No. 4613, eff June 24, 2016.

279.12. Prohibitions.

- a. Used oil shall not be managed in surface impoundments or waste piles unless the units are subject to regulation under R.61-79.264 or 265.
- b. No person shall utilize used oil for road oiling, dust control, weed abatement, or other similar uses which have potential to cause harm to the environment.
- c. Off-specification used oil fuel may be burned only in the following devices:
 - (1) Industrial furnaces identified in R.61-79.260.10;
 - (2) Boilers, as defined in R.61-79.260.10, that are identified as follows:
 - (a) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;
 - (b) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or
 - (c) Used oil-fired space heaters provided that the burner meets the provisions of 279.23 of Subpart C.
 - (3) Hazardous waste incinerators subject to regulation under Subpart O of R.61-79.264 or 265.
- d. No person shall knowingly mix or commingle used oil with municipal solid waste that is to be disposed in a municipal solid waste landfill, discard or otherwise dispose of used oil, except by delivery to a used oil collection facility, used oil energy recovery facility, oil recycling facility, or to an authorized agent for delivery to a used oil collection facility, used oil energy recovery facility, or oil recycling facility.
- e. No person shall knowingly dispose of used oil in a solid waste disposal facility unless such disposal is approved by the Department.
- f. No person shall knowingly place in a solid waste disposal facility wipers (shop towels, rags and industrial wipers) or sorptive materials (clays and diatomaceous earths) which are capable of releasing free flowing used oil. For the purposes of this regulation, free flowing used oil means any material determined to contain "free liquids" as defined by Method 9095 (Paint Filter Liquids Test), as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Pub. No. SW-846).
- g. No person shall knowingly collect, transport, store, recycle, use or dispose of used oil in any manner which endangers public health or welfare or the environment.
- h. No person shall knowingly discharge used oil into sewers, drainage systems, septic tanks, surface water or groundwater, or any other waters of this State, or onto the ground.
- i. No person shall knowingly mix or commingle used oil with hazardous substances that make it unsuitable for recycling or beneficial use.
- j. Notwithstanding any other provision of law, any person who knowingly disposes of any used oil which has not been properly segregated or separated from other solid wastes by the generator is guilty of a violation of this subsection.
- k. No person shall knowingly violate any applicable South Carolina Air Pollution Control Regulations and Standards (R.61-62).

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.13. Exemptions.

The following activities are exempted from the permitting requirements of this regulation, but must comply with the used oil management standards set forth in this regulation:

- a. an electric utility, an industrial facility or a governmental organization which generates during its operation used oil that is then reused, recycled, or refined on-site by the electric utility, an industrial facility or a governmental organization for use in its operations, or

- b. the use of used oil for the beneficiation or flotation of phosphate rock.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

SUBPART C
STANDARDS FOR USED OIL GENERATORS.

279.20. Applicability.

a. Except as provided in paragraphs a.(1) through a.(4) of this section, this subpart applies to all used oil generators. A used oil generator is any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

(1) Household “do-it-yourselfer” used oil generators are not subject to regulation under this regulation.

(2) Vessels at sea or at port are not subject to this subpart. For purposes of this subpart, used oil produced on vessels from normal shipboard operations is considered to be generated at the time it is transported ashore. The owner or operator of the vessel and the person(s) removing or accepting used oil from the vessel are co-generators of the used oil and are both responsible for managing the waste in compliance with this subpart once the used oil is transported ashore. The co-generators may decide among them which party will fulfill the requirements of this subpart.

(3) Mixtures of used oil and diesel fuel mixed by the generator of the used oil for use in the generator’s own vehicles are not subject to this regulation once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil fuel is subject to the requirements of this subpart.

(4) Farmers who generate an average of 25 gallons per month or less of used oil from vehicles or machinery used on the farm in a calendar year are not subject to the requirements of this regulation.

b. Used oil generators who conduct the following activities are subject to the requirements of other applicable provisions of this regulation as indicated below.

(1) Generators who transport used oil, except under the self-transport provisions of 279.24.a. and b. of this regulation, must also comply with Subpart E: Standards for Used Oil Transporters and Transfer Facilities of this regulation.

(2) Generators who process or re-refine used oil must also comply with Subpart F: Standards for Used Oil Processors and Re-refiners of this regulation.

(3) Generators who burn off-specification used oil for energy recovery, except under the on-site space heater provisions of 279.23 of this regulation, must also comply with Subpart G: Standards for Used Oil Burners who Burn Off-Specification Used Oil for Energy Recovery of this regulation.

(4) Generators who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in 279.11 of this regulation must also comply with Subpart H: Standards for Used Oil Fuel Marketers of this regulation.

(5) Generators who perform the following activities are not processors provided that the used oil is generated on-site and is not being sent off-site to a burner of on-or off-specification used oil fuel.

(a) Filtering, cleaning or otherwise reconditioning used oil before returning it for reuse by the generator;

(b) Separating used oil from wastewater generated on-site to make the wastewater acceptable for discharge or reuse pursuant to section 402 or section 307(b) of the Clean Water Act or other applicable Federal or state regulations governing the management or discharge of wastewaters;

(c) Using oil mist collectors to remove small droplets of used oil from in-plant air to make plant air suitable for continued recirculation;

(d) Draining or otherwise removing used oil from materials containing or otherwise contaminated with used oil in order to remove excessive oil to the extent possible pursuant to the regulation, or;

(e) Filtering, separating or otherwise reconditioning used oil before burning it in a space heater pursuant to the regulation.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.21. Hazardous Waste Mixing.

- a. Mixtures of used oil and hazardous waste must be managed in accordance with 279.10.b.
- b. The rebuttable presumption for used oil of 279.10.b.(1)(b) applies to used oil managed by generators.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.22. Used Oil Storage.

- a. Used oil generators shall not store used oil in units other than tanks, containers, or units subject to regulation under R.61-79.264 or 265.
- b. Containers and aboveground tanks used to store used oil at generator facilities must be:
 - (1) In good condition (no severe rusting, apparent structural defects or deterioration);
 - (2) Not leaking (no visible leaks); and
 - (3) Closed to prevent spillage or contamination from precipitation.
- c. Labels.
 - (1) Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."
 - (2) Fill pipes used to transfer used oil into underground storage tanks at generator facilities must be labeled or marked clearly with the words "Used Oil."
- d. Upon detection of a release of used oil to the environment not subject to the requirements of the Underground Storage Tank Control Regulations R.61-92 Part 280 Subpart F which has occurred in South Carolina, a generator must perform the following cleanup steps:
 - (1) Stop the release;
 - (2) Contain the released used oil;
 - (3) Clean up and manage properly the released used oil and other materials; and
 - (4) If necessary to prevent future releases, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.
- e. Used oil generators are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR Part 112) in addition to the requirements of this subpart. Used oil generators are also subject to R.61-92.280 standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this subpart.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995. Amended by State Register Volume 40, Issue No. 6, Doc. No. 4613, eff June 24, 2016.

279.23. On-site Burning in Space Heaters.

- a. Generators may burn used oil in used oil-fired space heaters provided that:
 - (1) The heater burns only used oil that the owner or operator generates or used oil received from household do-it-yourself used oil generators;
 - (2) The heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour; and
 - (3) The combustion gases from the heater are vented to outside ambient air.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.24. Off-site Shipments.

Except as provided in paragraphs a. through c. of this section, generators must ensure that their used oil is transported only by transporters who have obtained a Department identification number and a permit from the Department.

- a. Generators may transport, without an EPA identification number and a Department registration, used oil that is generated at the generator's site and used oil collected from household do-it-yourselfers to a used oil collection center provided that:

- (1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;
 - (2) The generator transports no more than 55 gallons of used oil at any time; and
 - (3) The generator transports the used oil to a used oil collection center that is registered by the Department to manage used oil.
- b. Generators may transport, without an EPA identification number and a Department registration, used oil that is generated at the generator's site to an aggregation point provided that:
- (1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;
 - (2) The generator transports no more than 55 gallons of used oil at any time; and
 - (3) The generator transports the used oil to an aggregation point that is owned and/or operated by the same generator.
- c. Used oil generators may arrange for used oil to be transported by a transporter without an EPA identification number and a Department registration if the used oil is reclaimed under a contractual agreement pursuant to which reclaimed oil is returned by the processor/re-refiner to the generator for use as a lubricant, cutting oil, or coolant. The contract (known as a "tolling arrangement") must indicate:
- (1) The type of used oil and the frequency of shipments;
 - (2) That the vehicle used to transport the used oil to the processing/re-refining facility and to deliver recycled used oil back to the generator is owned and operated by the used oil processor/re-refiner; and
 - (3) That reclaimed oil will be returned to the generator.
- d. Used oil generators shall maintain a copy of the used oil manifest provided by the used oil transporter. A copy of each used oil manifest shall be maintained by the generator for a minimum of three (3) years.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

SUBPART D
STANDARDS FOR USED OIL COLLECTION CENTERS AND AGGREGATION POINTS.

279.30. Do-It-Yourselfer Used Oil Collection Centers.

- a. This section applies to owners or operators of all do-it-yourselfer (DIY) used oil collection centers. A DIY used oil collection center is any site or facility that accepts/aggregates and stores used oil collected only from household do-it-yourselfers.
- b. Owners or operators of all DIY used oil collection centers must comply with the generator standards in Subpart C of this regulation.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.31. Used Oil Collection Centers.

- a. This section applies to owners or operators of used oil collection centers. A used oil collection center is any site or facility that accepts/aggregates and stores used oil collected from used oil generators regulated under Subpart C of this regulation who bring used oil to the collection center in shipments of no more than 55 gallons under the provisions of 279.24.a. Used oil collection centers may also accept used oil from household do-it-yourselfers.
- b. Owners or operators of all used oil collection centers must:
- (1) Comply with the generator standards in Subpart C of this regulation;
 - (2) Be registered by the Department to manage used oil;
 - (3) Obtain a registration from the Department prior to first accepting used oil at the site. All used oil collection centers in operation at the effective date of this regulation shall submit an application for a registration from the Department within ninety (90) days; and,

(4) Submit to the Department on or before March 15, an annual report for the previous year which contains at a minimum the following information:

- (a) if the collection facility is accepting used oil from the public;
- (b) the quantities of used oil collected in the previous year;
- (c) the total quantity of used oil handled in the previous year; and,
- (d) where the used oil is being recycled or processed.

c. All used oil collection facilities shall notify the Department in writing if they intend to cease the collection of used oil. Closure shall consist of, at a minimum, the removal of all oil collected at the site, dismantling and removal or proper cleaning and capping of all collection equipment and ancillary equipment, and removal and proper disposal or treatment of any oil stained soils. Further assessment and remediation, if necessary, shall be directed by the Department.

d. Containers and tanks used to store used oil at collection centers must be equipped with a secondary containment system capable of retaining the volumetric contents of the largest tank or container.

(1) The secondary containment system must consist of, at a minimum:

- (a) Dikes, berms or retaining walls; and
- (b) A floor. The floor must cover the entire area within the dikes, berms, or retaining walls.
- (c) An equivalent secondary containment system approved by the Department.

(2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.32. Used Oil Aggregation Points Owned By the Generator.

a. This section applies to owners or operators of all used oil aggregation points. A used oil aggregation point is any site or facility that accepts, aggregates, and/or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than 55 gallons under the provisions of 279.24.b. Used oil aggregation points may also accept used oil from household do-it-yourselfers.

b. Owners or operators of all used oil aggregation points must comply with the generator standards in Subpart C of this regulation.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.33. Petroleum Fund.

a. No person may recover from the owner or operator of a registered used oil collection facility that accepts used oil from the public (do-it-yourselfers) in five (5) gallon or less quantities any costs of response actions resulting from a release of either used oil or a hazardous substance from a used oil collection facility if such used oil is:

- (1) not mixed with any hazardous substance by the owner or operator of the used oil collection facility;
- (2) not knowingly accepted with any hazardous substances contained in it;
- (3) from the public (do-it-yourselfers) and stored in a separate collection container;
- (4) transported from the used oil collection facility by a registered used oil transporter; and,
- (5) collected in a used oil collection facility that is in compliance with this subpart.

b. If a hazardous substance is found to be mixed with used oil accepted from the public at a registered used oil collection facility, any costs for the proper disposal of this contaminated waste will be incurred by the Petroleum Fund, if no more than five (5) gallons of used oil was accepted from any one person at any one time. This subsection applies to that portion of the used oil collection facility utilized for the collection of used oil and does not apply if the owner or operator is grossly negligent in the operation of the public used oil collection facility. Nothing in this section shall affect or modify in

any way the obligations or liability of any person under any other provisions of state or federal law, including common law, for injury or damage resulting from the release of used oil or hazardous substances. For the purpose of this subsection, the owner or operator of a used oil collection facility may presume that a quantity of no more than five (5) gallons of used oil accepted from any member of the public is not mixed with a hazardous substance, if the owner or operator acts in good faith and in the belief the oil is generated from the individual's personal activity.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

SUBPART E
STANDARDS FOR USED OIL TRANSPORTER AND TRANSFER FACILITIES.

279.40. Applicability.

a. Except as provided in paragraphs a.(1) through a.(4) of this section, this subpart applies to all used oil transporters. Used oil transporters are persons who transport used oil, persons who collect used oil from more than one generator and transport the collected oil, and owners and operators of used oil transfer facilities.

(1) This subpart does not apply to on-site transportation.

(2) This subpart does not apply to generators who transport shipments of used oil totalling 55 gallons or less from the generator to a used oil collection center as specified in 279.24.a. of this regulation.

(3) This subpart does not apply to generators who transport shipments of used oil totalling 55 gallons or less from the generator to a used oil aggregation point owned or operated by the same generator as specified in 279.24.b. of this regulation.

(4) This subpart does not apply to transportation of used oil from household do-it-yourselfers to a regulated used oil generator, collection center, aggregation point, processor/re-refiner, or burner subject to the requirements of this regulation. Except as provided in paragraphs a.(1) through a.(3) of this section, this subpart does, however, apply to transportation of collected household do-it-yourselfer used oil from regulated used oil generators, collection centers, aggregation points, or other facilities where household do-it-yourselfer used oil is collected.

b. Transporters who import used oil from abroad or export used oil outside of the United States are subject to the requirements of this subpart from the time the used oil enters and until the time it exits the United States.

c. Unless trucks previously used to transport hazardous waste are emptied as described in R.61-79.261.7 prior to transporting used oil, the used oil is considered to have been mixed with the hazardous waste and must be managed as hazardous waste unless, under the provisions of 279.10.b. of this regulation, the hazardous waste/used oil mixture is determined not to be hazardous waste.

d. Used oil transporters who conduct the following activities are also subject to other applicable provisions of this regulation as indicated below:

(1) Transporters who generate used oil must also comply with Subpart C: Standards for Used Oil Generators of this regulation;

(2) Transporters who process or re-refine used oil, except as provided in 279.41, must also comply with Subpart F: Standards for Used Oil Processors and Re-refiners of this regulation;

(3) Transporters who burn off-specification used oil for energy recovery must also comply with Subpart G: Standards for Used Oil Burners who Burn Off-Specification Used Oil for Energy Recovery of this regulation; and

(4) Transporters who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in 279.11 of this regulation must also comply with Subpart H of this regulation.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.41. Restrictions on Transporters Who Are Not Also Processors or Re-refiners.

a. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation. However, except as provided in paragraph b. of this section, used oil transporters may not

process used oil unless they also comply with the requirements for processors/re-refiners in Subpart F of this regulation.

b. Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products unless they also comply with the processor/re-refiner requirements in Subpart F of this regulation.

c. Transporters of used oil that is removed from oil bearing electrical transformers and turbines and filtered by the transporter or at a transfer facility prior to being returned to its original use are not subject to the processor/re-refiner requirements in this regulation.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.42. Notification and Insurance Requirements.

a. Used oil transporters that have previously notified EPA of hazardous waste and other used oil management activities and obtained an EPA identification number must also register with the Department to identify their used oil transportation activities.

b. A used oil transporter who has not received an EPA identification number may obtain one by notifying the Department of their used oil activity by submitting a completed SCDES Form 2701.

c. In addition to obtaining an EPA identification number, each transporter of used oil shall register with the Department. Registration shall be made by completion of an application form provided by the Department.

d. A transporter of used oil shall have and maintain financial responsibility for sudden and accidental occurrences in the amount of at least one million dollars (\$1,000,000) per occurrence exclusive of legal defense costs. Coverage must provide for claims arising out of injury to persons, property or the environment including the spillage of used oil while such wastes are being transported and including the costs of cleaning up the spill. Such liability coverage must be maintained at all times while the registration is in force.

e. The financial responsibility required in subsection d. may be established by any one or a combination of the following:

(1) Evidence of liability insurance, either on a claim made or an occurrence basis, with or without a deductible, with the deductible, if any, to be on a per occurrence or per accident basis and not to exceed ten (10) percent of the equity of the registered transporter;

(2) self insurance, the level of which shall not exceed ten (10) percent equity of the registered transporter; or

(3) other evidence of financial responsibility approved by the Department.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995. Amended by State Register Volume 40, Issue No. 6, Doc. No. 4613, eff June 24, 2016; SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

279.43. Used Oil Transportation.

a. A used oil transporter must deliver all used oil received to:

(1) Another used oil transporter, provided that the transporter has obtained an EPA identification number and is registered with the Department;

(2) A used oil processing/re-refining facility which has obtained an EPA identification number;

(3) An off-specification used oil burner facility which has obtained an EPA identification number; or

(4) An on-specification used oil burner facility.

b. Used oil transporters must comply with all applicable requirements under the US Department of Transportation regulations in 49 CFR parts 171-180. Persons transporting used oil that meets the definition of a hazardous material in 49 CFR 171.8 must comply with all applicable regulations in 49 CFR parts 171-180.

c. Used oil discharges.

(1) In the event of a discharge of used oil during transportation, the transporter must take appropriate immediate action to protect human health and the environment (e.g., notify local authorities, dike the discharge area).

(2) If a discharge of used oil occurs during transportation and an official (State or local government or a Federal Agency) acting within the scope of official responsibilities determines that immediate removal of the used oil is necessary to protect human health or the environment, that official may authorize the removal of the used oil by a transporter who is not registered with the Department.

(3) An air, rail, highway, or water transporter who has discharged used oil must:

(a) Give notice, if required by 49 CFR 171.15 to the National Response Center (800-424-8802 or 202-426-2675); and

(b) Report in writing as required by 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590.

(c) Immediately telephone the Department's 24-hour emergency telephone number (803) 253-6488, giving all requested information.

(4) A water transporter who has discharged used oil must give notice as required by 33 CFR 153.203.

(5) A transporter must clean up any used oil discharge that occurs during transportation or take such action as may be required or approved by federal, state, or local officials so that the used oil discharge no longer presents a hazard to human health or the environment. Further assessment and remediation, if necessary, shall be directed by the Department.

d. All registered used oil transporters shall show evidence of familiarity with laws and regulations governing used oil transportation by submitting a training program for approval by the Department which includes provisions for at least the following:

(1) compliance with state and federal regulations governing used oil;

(2) proper used oil management practices, including appropriate response action to any release or spill;

(3) introduction of a new employee to the applicable laws and rules before unsupervised driving of a used oil transportation vehicle;

(4) verification that company personnel handling or transporting used oil have successfully completed the training program. New employees directly involved with handling or transporting used oil shall complete the training program as soon as possible, but no later than ninety (90) days after beginning employment.

e. Any used oil transporter which transports used oil through South Carolina and does not stop to accept or deliver used oil is not subject to the requirements of this regulation, with the exception of sections 279.43.b. and 279.43.c.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.44. Rebuttable Presumption for Used Oil.

a. To ensure that used oil is not a hazardous waste under the rebuttable presumption of 279.10.b.(1)(b) of this regulation, the used oil transporter must determine whether the total halogen content of used oil being transported or stored at a transfer facility is above or below 1,000 ppm.

b. The transporter must make this determination by:

(1) Testing the used oil; or

(2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.

c. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of R.61-79.261. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition

III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of R.61-79.261).

(1) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in 279.24.c., to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

(2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units if the CFCs reclaimed to the extent possible are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

d. Records of analyses conducted or information used to comply with paragraphs a., b., and c. of this section must be maintained by the transporter for at least three (3) years.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.45. Used Oil Storage at Transfer Facilities.

a. This section applies to used oil transfer facilities. Used oil transfer facilities are transportation related facilities including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than twenty-four (24) hours during the normal course of transportation and not longer than thirty-five (35) days. Transfer facilities that store used oil for more than thirty-five (35) days are subject to regulation under Subpart F of this regulation.

b. Owners or operators of used oil transfer facilities may not store used oil in units other than tanks, containers, or units subject to regulation under R.61-79.264 or 265.

c. Containers and aboveground tanks used to store used oil at transfer facilities must be:

- (1) In good condition (no severe rusting, apparent structural defects or deterioration);
- (2) Not leaking (no visible leaks); and
- (3) Closed to prevent spillage or contamination from precipitation.

d. Containers and tanks used to store used oil at transfer facilities must be equipped with a secondary containment system capable of retaining the volumetric contents of the largest tank or container.

(1) The secondary containment system must consist of, at a minimum:

- (a) Dikes, berms or retaining walls; and
- (b) A floor. The floor must cover the entire area within the dikes, berms, or retaining walls.
- (c) An equivalent secondary containment system approved by the Department.

(2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

e. Existing aboveground tanks used to store used oil at transfer facilities must be equipped with a secondary containment system capable of retaining the volumetric contents of the largest tank.

(1) The secondary containment system must consist of, at a minimum:

- (a) Dikes, berms or retaining walls; and
- (b) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or
- (c) An equivalent secondary containment system approved by the Department.

(2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

f. New aboveground tanks used to store used oil at transfer facilities must be equipped with a secondary containment system capable of retaining the volumetric contents of the largest tank.

(1) The secondary containment system must consist of, at a minimum:

- (a) Dikes, berms or retaining walls; and

- (b) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
 - (c) An equivalent secondary containment system approved by the Department.
- (2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- g. Labeling.
- (1) Containers and aboveground tanks used to store used oil at transfer facilities must be labeled or marked clearly with the words "Used Oil."
 - (2) Fill pipes used to transfer used oil into underground storage tanks at transfer facilities must be labeled or marked clearly with the words "Used Oil."
- h. Upon detection of a release of used oil to the environment not subject to the requirements of R.61-92.280 Subpart F, the owner/operator of a transfer facility must perform the following cleanup steps:
- (1) Stop the release;
 - (2) Contain the released used oil;
 - (3) Clean up and manage properly the released used oil and other materials; and
 - (4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.
 - (5) Further assessment and remediation, if necessary, shall be directed by the Department.
- i. Used oil transporters are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR Part 112) in addition to the requirements of this subpart. Used oil generators are also subject to R.61-92.280 standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this subpart.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995. Amended by State Register Volume 40, Issue No. 6, Doc. No. 4613, eff June 24, 2016.

279.46. Manifesting and Reporting.

- a. Used oil transporters must prepare a used oil manifest as designated by the Department for each used oil shipment accepted for transport. A copy of the used oil manifest shall accompany each vehicle at all times. Manifests for each shipment must include, at a minimum:
- (1) The name and address of the generator, transporter, or processor/re-refiner who provided the used oil for transport;
 - (2) The EPA identification number (if applicable) of the generator, transporter, or processor/re-refiner who provided the used oil for transport;
 - (3) The quantity of used oil accepted;
 - (4) The date of acceptance; and
 - (5) The signature, dated upon receipt of the used oil, of a representative of the generator, transporter, or processor/re-refiner who provided the used oil for transport. Intermediate rail transporters are not required to sign the record of acceptance.
- b. Used oil transporters must maintain manifests and keep a record of each shipment of used oil that is delivered to another used oil transporter, or to a used oil burner, processor/re-refiner, or disposal facility. Records of each delivery must include:
- (1) The name and address of the receiving facility or transporter;
 - (2) The EPA identification number of the receiving facility or transporter;
 - (3) The quantity of used oil delivered;
 - (4) The date of delivery;
 - (5) The signature, dated upon receipt of the used oil, of a representative of the receiving facility or transporter. Intermediate rail transporters are not required to sign the record of delivery.
- c. Used oil transporters must maintain the records described in paragraphs b.(1) through b.(4) of this section for each shipment of used oil exported to any foreign country.

d. The records described in paragraphs a., b., and c. of this section must be maintained for at least three (3) years.

e. Used oil transporters shall deliver the shipment of used oil to the facility identified on the used oil manifest, and provide the facility and the generator with a copy of the used oil manifest.

f. All used oil transporters shall maintain records and submit annual reports on or before March 15, which identify, at a minimum:

- (1) the sources of the used oil transported;
- (2) the quantity of used oil received;
- (3) the date of receipt;
- (4) the destination or the end use of the used oil within South Carolina; and,
- (5) proof of liability insurance or other means of financial responsibility for any liability which may be incurred in the transport of used oil.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995. Amended by State Register Volume 40, Issue No. 6, Doc. No. 4613, eff June 24, 2016.

279.47. Management of Residues.

Transporters who generate residues from the storage or transport of used oil must manage the residues as specified in 279.10.e.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

SUBPART F STANDARDS FOR USED OIL PROCESSORS AND RE-REFINERS.

279.50. Applicability.

a. The requirements of this subpart apply to owners and operators of facilities that process used oil. Processing means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived products. Processing includes, but is not limited to: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation and re-refining. The requirements of this subpart do not apply to:

- (1) Transporters that conduct incidental processing operations that occur during the normal course of transportation as provided in 279.41 of this regulation; or
- (2) Burners that conduct incidental processing operations that occur during the normal course of used oil management prior to burning as provided in 279.61.b.

b. Used oil processors/re-refiners who conduct the following activities are also subject to the requirements of other applicable provisions of this regulation as indicated in paragraphs b.(1) through b.(4) of this section.

- (1) Processors/re-refiners who generate used oil must also comply with Subpart C: Standards for Used Oil Generators of this regulation;
- (2) Processors/re-refiners who transport used oil must also comply with Subpart E: Standards for Used Oil Transporters and Transfer Facilities;
- (3) Except as provided in paragraphs b.(3)(a) and b.(3)(b) of this section, processors/re-refiners who burn off-specification used oil for energy recovery must also comply with Subpart G : Standards for Used Oil Burners who Burn Off-Specification Used Oil for Energy Recovery. Processor/re-refiners burning used oil for energy recovery under the following conditions are not subject to Subpart G of this regulation:
 - (a) The used oil is burned in an on-site space heater that meets the requirements of 279.23; or
 - (b) The used oil is burned for purposes of processing used oil, which is considered burning incidentally to used oil processing.
- (4) Processors/re-refiners who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil

fuel specifications set forth in 279.11 of this regulation must also comply with Subpart H of this regulation.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.51. Notification and Permitting.

a. Used oil processors/re-refiners that have previously notified EPA of hazardous waste and other used oil activities and obtained an EPA identification number must notify the Department to identify the used oil processor/re-refiner activities. In addition, the processor/re-refiner must obtain a permit from the Department.

b. A used oil processor or re-refiner who has not received an EPA identification number may obtain one by notifying the Department of the used oil activity by submitting a completed SCDES Form 2701.

c. Each person who intends to operate, modify, or close a used oil recycling facility shall obtain an operation or closure permit from the Department prior to operating, modifying, or closing the facility.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995. Amended by SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

279.52. General Facility Standards.

a. Owners and operators of used oil processors and re-refiners facilities must comply with the following requirements:

(1) Facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water which could threaten human health or the environment.

(2) All facilities must be equipped with the following, unless none of the hazards posed by used oil handled at the facility could require a particular kind of equipment specified below:

(a) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

(b) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;

(c) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment and decontamination equipment; and

(d) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

(3) All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

(4) Whenever used oil is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in paragraph a.(2) of this section.

(a) If there is ever just one employee on the premises while the facility is operating, the employee must have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required in paragraph a.(2) of this section.

(b) [None]

(5) The owner or operator must 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 aisle space is not needed for any of these purposes.

(6) Arrangements with local authorities.

(a) The owner or operator must make the following arrangements, as appropriate for the type of used oil handled at the facility and the potential need for the services of these organizations:

(i) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;

(ii) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

(iii) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and

(iv) Arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

(b) Where State or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.

b. Owners and operators of used oil processors and re-refiners facilities must comply with the following requirements:

(1) Purpose and implementation of the contingency plan.

(a) Each owner or operator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water.

(b) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of used oil which could threaten human health or the environment.

(2) Content of the contingency plan.

(a) The contingency plan must describe the actions facility personnel must take to comply with subsections b. and f. of this section in response to fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water at the facility.

(b) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR part 112, or part 1510 of chapter V, or some other emergency or contingency plan, the owner or operator need only amend that plan to incorporate used oil management provisions that are sufficient to comply with the requirements of this regulation.

(c) The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to paragraph a.(6) of this section.

(d) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see subsection e. of this section), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

(e) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.

(f) The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of used oil or fires).

c. A copy of the contingency plan and all revisions to the plan must be:

- (1) Maintained at the facility; and
 - (2) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.
- d. The contingency plan must be reviewed, and immediately amended, if necessary, whenever:
 - (1) Applicable regulations are revised;
 - (2) The plan fails in an emergency;
 - (3) The facility changes-in its design, construction, operation, maintenance, or other circumstances-in a way that materially increases the potential for fires, explosions, or releases of used oil, or changes the response necessary in an emergency;
 - (4) The list of emergency coordinators changes; or
 - (5) The list of emergency equipment changes.
- e. At all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristic of used oil handled, the location of all records within the facility, and facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.
- f. Emergency procedures.
 - (1) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or the designee when the emergency coordinator is on call) must immediately:
 - (a) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and
 - (b) Notify the Department or appropriate local agencies with designated response roles if their help is needed.
 - (2) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and a real extent of any released materials. He may do this by observation or review of facility records of manifests and, if necessary, by chemical analysis.
 - (3) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water of chemical agents used to control fire and heat-induced explosions).
- g. If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, he must report his findings as follows:
 - (1) If his assessment indicated that evacuation of local areas may be advisable, he must immediately notify appropriate local authorities. He must be available to help appropriate officials decide whether local areas should be evacuated; and
 - (2) He must immediately notify either the Department official designated as the on-scene coordinator for the geographical area (in the applicable regional contingency plan under part 1510 of this title), or the National Response Center (using their 24-hour toll free number 800/424-8802). The report must include:
 - (a) Name and telephone number of reporter;
 - (b) Name and address of facility;
 - (c) Time and type of incident (e.g., release, fire);
 - (d) Name and quantity of material(s) involved, to the extent known;
 - (e) The extent of injuries, if any; and
 - (f) The possible hazards to human health, or the environment, outside the facility.

h. During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other used oil or hazardous waste at the facility. These measures must include, where applicable, stopping processes and operation, collecting and containing released used oil, and removing or isolating containers.

i. If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

j. Immediately after an emergency, the emergency coordinator must provide for recycling, storing, or disposing of recovered used oil, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

k. The emergency coordinator must ensure that, in the affected area(s) of the facility:

(1) No waste or used oil that may be incompatible with the released material is recycled, treated, stored, or disposed of until cleanup procedures are completed; and

(2) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

l. The owner or operator must notify the Department, and appropriate local authorities that the facility is in compliance with paragraph k. of this section before operations are resumed in the affected area(s) of the facility.

m. The owner or operator must note in the operating record the time, date and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he must submit a written report on the incident to the Department. The report must include:

(1) Name, address, and telephone number of the owner or operator;

(2) Name, address, and telephone number of the facility;

(3) Date, time, and type of incident (e.g., fire, explosion)

(4) Name and quantity of material(s) involved;

(5) The extent of injuries, if any;

(6) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and,

(7) Estimated quantity and disposition of recovered material that resulted from the incident.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.53. Rebuttable Presumption for Used Oil.

a. To ensure that used oil managed at a processing/re-refining facility is not hazardous waste under the rebuttable presumption of 279.10.b.(1)(b), the owner or operator of a used oil processing/re-refining facility must determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm.

b. The owner or operator must make this determination by:

(1) Testing the used oil; or

(2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.

c. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of R.61-79.261. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of R.61-79.261).

(1) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling agreement, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

(2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) reclaimed to the extent possible from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.54. Used Oil Management.

a. Used oil processors/re-refiners may not store used oil in units other than tanks, containers, or units subject to regulation under R.61-79.264 or 265.

b. Containers and aboveground tanks used to store or process used oil at processing and re-refining facilities must be:

- (1) In good condition (no severe rusting, apparent structural defects or deterioration);
- (2) Not leaking (no visible leaks); and
- (3) Closed to prevent spillage and contamination from precipitation.

c. Containers and tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system capable of retaining the volumetric contents of the largest container.

(1) The secondary containment system must consist of, at a minimum:

- (a) Dikes, berms or retaining walls; and
- (b) A floor. The floor must cover the entire area within the dike, berm, or retaining wall.
- (c) An equivalent secondary containment system approved by the Department.

(2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

d. Existing aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system capable of retaining the volumetric contents of the largest tank.

(1) The secondary containment system must consist of, at a minimum:

- (a) Dikes, berms or retaining walls; and
- (b) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or
- (c) An equivalent secondary containment system approved by the Department.

(2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

e. New aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system capable of retaining the volumetric contents of the largest tank.

(1) The secondary containment system must consist of, at a minimum:

- (a) Dikes, berms or retaining walls; and
- (b) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
- (c) An equivalent secondary containment system approved by the Department.

(2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

f. Labels.

(1) Containers and aboveground tanks used to store or process used oil at processing and re-refining facilities must be labeled or marked clearly with the words "Used Oil."

(2) Fill pipes used to transfer used oil into underground storage tanks at processing and re-refining facilities must be labeled or marked clearly with the words "Used Oil."

g. Upon detection of a release of used oil to the environment not subject to the requirements of R.61-79.280 Subpart F, an owner/operator must perform the following cleanup steps:

- (1) Stop the release;
- (2) Contain the released used oil;
- (3) Clean up and manage properly the released used oil and other materials; and
- (4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.
- (5) Further assessment and remediation, if necessary, shall be directed by the Department.

h. Closure requirements.

(1) Owners and operators who store or process used oil in aboveground tanks must comply with the following requirements:

(a) At closure of a tank system, the owner or operator must remove or decontaminate used oil residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil; and manage them as hazardous waste, unless the materials are not hazardous waste under this regulation. Further assessment and remediation, if necessary, shall be directed by the Department.

(b) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in paragraph h.(1)(a) of this section, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to hazardous waste landfills (R.61-79.265.310).

(2) Owners and operators who store used oil in containers must comply with the following requirements:

(a) At closure, containers holding used oils or residues of used oil must be removed from the site;

(b) The owner or operator must remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil; and manage them as hazardous waste, unless the materials are not hazardous waste under R.61-79.261.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995. Amended by State Register Volume 40, Issue No. 6, Doc. No. 4613, eff June 24, 2016.

279.55. Analysis Plan.

Owners or operators of used oil processing and re-refining facilities must develop and follow a written analysis plan describing the procedures that will be used to comply with the analysis requirements of 279.53 and, if applicable, 279.72. The owner or operator must keep the plan at the facility.

a. At a minimum, the plan must specify the following:

(1) Whether sample analyses or knowledge of the halogen content of the used oil will be used to make this determination.

(2) If sample analyses are used to make this determination:

(a) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either:

(i) One of the sampling methods in Appendix I of R.61-79.261; or

(ii) A method shown to be equivalent under R.61-79.260.20 and 260.21;

(b) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and

(c) The methods used to analyze used oil for the parameters specified in 279.53; and

(3) The type of information that will be used to determine the halogen content of the used oil.

b. At a minimum, the plan must specify the following if 279.72 is applicable:

(1) Whether sample analyses or other information will be used to make this determination;

(2) If sample analyses are used to make this determination:

(a) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either:

(i) One of the sampling methods in Appendix I of R.61-79.261; or

(ii) A method shown to be equivalent under R.61-79.260.20 and 260.21;

(b) Whether used oil will be sampled and analyzed prior to or after any processing/re-refining;

(c) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and

(d) The methods used to analyze used oil for the parameters specified in 279.72; and

(3) The type of information that will be used to make the on-specification used oil fuel determination.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.56. Tracking.

a. Used oil processors/re-refiners must keep a copy of the used oil manifest for each used oil shipment accepted for processing/re-refining. Records for each shipment must include the following information:

(1) The name and address of the transporter who delivered the used oil to the processor/re-refiner;

(2) The name and address of the generator or processor/re-refiner from whom the used oil was sent for processing/re-refining;

(3) The EPA identification number and the Department registration number of the transporter who delivered the used oil to the processor/re-refiner;

(4) The EPA identification number and the Department permit number (if applicable) of the generator or processor/re-refiner from whom the used oil was sent for processing/re-refining;

(5) The quantity of used oil accepted; and

(6) The date of acceptance.

b. Used oil processor/re-refiners must keep a copy of the manifest of each shipment of used oil that is shipped to a used oil burner, processor/re-refiner, or disposal facility. Records for each shipment must include the following information:

(1) The name and address of the transporter who delivers the used oil to the burner, processor/re-refiner or disposal facility;

(2) The name and address of the burner, processor/re-refiner or disposal facility who will receive the used oil;

(3) The EPA identification number and the Department registration number of the transporter who delivers the used oil to the burner, processor/re-refiner or disposal facility;

(4) The EPA identification number and the Department permit number of the burner, processor/re-refiner, or disposal facility who will receive the used oil;

(5) The quantity of used oil shipped; and

(6) The date of shipment.

c. The used oil manifests and records described in paragraphs a. and b. of this section must be maintained for at least three (3) years.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995. Amended by State Register Volume 40, Issue No. 6, Doc. No. 4613, eff June 24, 2016.

279.57. Operating Record and Reporting.

a. Operating Record.

(1) The owner or operator must keep a written operating record at the facility.

(2) The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

- (a) Records and results of used oil analyses performed as described in the analysis plan required under 279.55; and
 - (b) Summary reports and details of all incidents that require implementation of the contingency plan as specified in 279.52.b.
- b. A used oil processor/re-refiner must report to the Department, in the form of a letter, on an annual basis (by March 15 of each year), the following information concerning used oil activities during the previous calendar year:
- (1) The EPA identification number, Department permit number, name, and address of the processor/re-refiner;
 - (2) The calendar year covered by the report; and
 - (3) The quantities of used oil accepted for processing/re-refining and the manner in which the used oil is processed/re-refined, including the specific processes employed.
- c. Each permitted person who processes, re-refines or otherwise recycles used oil shall maintain records which identify, at a minimum:
- (1) the source of the materials recycled;
 - (2) the quantity of materials received;
 - (3) the date of receipt;
 - (4) the destination or the end use of the materials; and,
 - (5) the results of analytical testing to ensure that delivered used oil is not contaminated with hazardous substances.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.58. Off-site Shipments of Used Oil.

Used oil processors/re-refiners who initiate shipments of used oil off-site must ship the used oil by means of a used oil transporter who has obtained an EPA identification number and is registered with the Department.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.59. Management of Residues.

Owners and operators who generate residues from the storage, processing, or re-refining of used oil must manage the residues as specified in 279.10.e.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

SUBPART C

STANDARDS FOR USED OIL BURNERS WHO BURN OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY.

279.60. Applicability.

a. The requirements of this subpart apply to used oil burners except as specified in paragraphs a.(1) and a.(2) of this section. A used oil burner is a facility where used oil not meeting the specification requirements in 279.11 is burned for energy recovery in devices identified in 279.61.a. No person shall knowingly violate any applicable South Carolina Air Pollution Control Regulations and Standards (R.61-62). Facilities burning used oil for energy recovery under the following conditions are not subject to this subpart:

- (1) The used oil is burned by the generator in an on-site space heater under the provisions of 279.23 of this regulation; or
- (2) The used oil is burned by a processor/re-refiner for purposes of processing used oil, which is considered burning incidentally to used oil processing.

b. Used oil burners who conduct the following activities are also subject to the requirements of other applicable provisions of this regulation as indicated below.

- (1) Burners who generate used oil must also comply with Subpart C: Standards for Used Oil Generators;

(2) Burners who transport used oil must also comply with Subpart E: Standards for Used Oil Transporters and Transfer Facilities of this regulation;

(3) Except as provided in 279.61.b., burners who process or re-refine used oil must also comply with Subpart F: Standards for Used Oil Processors and Re-refiners of this regulation; and,

(4) Burners who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in 279.11 of this regulation must also comply with Subpart H: Standards for Used Oil Fuel Marketers of this regulation.

c. This subpart does not apply to persons burning used oil that meets the used oil fuel specification of 279.11, provided that the burner complies with the requirements of Subpart H of this regulation.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.61. Restrictions on Burning.

a. Off-specification used oil fuel may be burned for energy recovery in only the following devices:

(1) Industrial furnaces identified in R.61-79.260.10;

(2) Boilers, as defined in R.61-79.260.10, that are identified as follows:

(a) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;

(b) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or

(c) Used oil-fired space heaters, provided that the burner meets the provisions of 279.23 of Subpart C; or

b. Exemption.

(1) With the following exception, used oil burners may not process used oil unless they also comply with requirements of Subpart F of this regulation.

(2) Used oil burners may aggregate off-specification used oil with virgin oil or on-specification used oil for purposes of burning, but may not aggregate for purposes of producing on-specification used oil.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.62. Notification.

a. Used oil burners that have not previously notified EPA of their used oil burning activities must notify EPA to identify their used oil burning activities. Even if a burner has previously notified EPA of hazardous waste management activities under section 3010 of RCRA and obtained an identification number, the used oil burner must renotify EPA to identify used oil burning activities. In addition, the burner must obtain a permit from the Department.

b. A used oil burner who has not received an EPA identification number may obtain one by notifying the Department of their used oil activity by submitting a completed SCDES Form 2701.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995. Amended by State Register Volume 40, Issue No. 6, Doc. No. 4613, eff June 24, 2016; SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

279.63. Rebuttable Presumption for Used Oil.

a. To ensure that used oil managed at a used oil burner facility is not hazardous waste under the rebuttable presumption of 279.10.b.(1)(b), a used oil burner must determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm.

b. The used oil burner must determine if the used oil contains above or below 1,000 ppm total halogens by:

(1) Testing the used oil;

(2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used; or

(3) If the used oil has been received from a processor/re-refiner subject to regulation under Subpart F of this regulation, using information provided by the processor/re-refiner.

c. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of R.61-79.261. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of R.61-79.261).

(1) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in 279.24.c., to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

(2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) reclaimed to the extent possible from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

d. Records of analyses conducted or information used to comply with paragraphs a., b., and c. of this section must be maintained by the burner for at least three (3) years.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.64. Used Oil Storage.

a. Used oil burners may not store used oil in units other than tanks, containers, or units subject to regulation under R.61-79.264 or 265.

b. Containers and aboveground tanks used to store used oil at burner facilities must be:

- (1) In good condition (no severe rusting, apparent structural defects or deterioration); and
- (2) Not leaking (no visible leaks).

c. Containers and tanks used to store used oil at burner facilities must be equipped with a secondary containment system capable of retaining the volumetric contents of the largest container.

(1) The secondary containment system must consist of, at a minimum:

- (a) Dikes, berms or retaining walls; and
- (b) A floor. The floor must cover the entire area within the dike, berm, or retaining wall.

(2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

d. Existing aboveground tanks used to store used oil at burner facilities must be equipped with a secondary containment system capable of retaining the volumetric contents of the largest tank.

(1) The secondary containment system must consist of, at a minimum:

- (a) Dikes, berms or retaining walls; and
- (b) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or
- (c) An equivalent secondary containment system approved by the Department.

(2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

e. New aboveground tanks used to store used oil at burner facilities must be equipped with a secondary containment system capable of retaining the volumetric contents of the largest tank.

(1) The secondary containment system must consist of, at a minimum:

- (a) Dikes, berms or retaining walls; and
- (b) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
- (c) An equivalent secondary containment system approved by the Department.

(2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

f. Labels.

(1) Containers and aboveground tanks used to store used oil at burner facilities must be labeled or marked clearly with the words "Used Oil."

(2) Fill pipes used to transfer used oil into underground storage tanks at burner facilities must be labeled or marked clearly with the words "Used Oil."

g. Upon detection of a release of used oil to the environment not subject to the requirements of R.61-92.280 Subpart F, a burner must perform the following cleanup steps:

(1) Stop the release;

(2) Contain the released used oil;

(3) Clean up and manage properly the released used oil and other materials; and

(4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(5) Further assessment and remediation, if necessary, shall be directed by the Department.

h. Used oil burners are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR Part 112) in addition to the requirements of this subpart. Used oil generators are also subject to R.61-92.280 standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this subpart.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.65. Tracking.

a. Used oil burners must keep a copy of the used oil manifest for each used oil shipment accepted for burning. Records for each shipment must include the following information:

(1) The name and address of the transporter who delivered the used oil to the burner;

(2) The name and address of the generator or processor/re-refiner from whom the used oil was sent to the burner;

(3) The EPA identification number and the Department registration number of the transporter who delivered the used oil to the burner;

(4) The EPA identification number and the Department permit number (if applicable) of the generator or processor/re-refiner from whom the used oil was sent to the burner;

(5) The quantity of used oil accepted; and

(6) The date of acceptance.

b. The used oil manifests and records described in item 61-107.279.65.a of this section must be maintained for at least three (3) years.

c. A used oil burner must report to the Department, in the form of a letter, on an annual basis (by March 15 of each year), the following information concerning used oil activities during the previous calendar year:

(1) The EPA identification number, Department permit number, name, and address of the burner;

(2) The calendar year covered by the report; and

(3) The quantities of used oil accepted for burning.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995. Amended by State Register Volume 40, Issue No. 6, Doc. No. 4613, eff June 24, 2016.

279.66. Notices.

a. Before a burner accepts the first shipment of off-specification used oil fuel from a generator, transporter, or processor/re-refiner, the burner must provide to the generator, transporter, or processor/re-refiner a one-time written and signed notice certifying that:

(1) The burner has notified the Department stating the location and general description of his used oil management activities; and

(2) The burner will burn the used oil only in an industrial furnace or boiler identified in 279.61.a.

b. The certification described in paragraph a. of this section must be maintained for three (3) years from the date the burner last receives shipment of off-specification used oil from that generator, transporter, or processor/re-refiner.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.67. Management of Residues.

Burners who generate residues from the storage or burning of used oil must manage the residues as specified in 279.10.e.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

SUBPART H

STANDARDS FOR USED OIL FUEL MARKETERS.

279.70. Applicability.

a. Any person who conducts either of the following activities is subject to the requirements of this subpart:

(1) Directs a shipment of off-specification used oil from their facility to a used oil burner; or

(2) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in 279.11 of this regulation.

b. The following persons are not marketers subject to this subpart:

(1) Used oil generators, and transporters who transport used oil received only from generators, unless the generator or transporter directs a shipment of off-specification used oil from their facility to a used oil burner. However, processors/re-refiners who burn some used oil fuel for purposes of processing are considered to be burning incidentally to processing. Thus, generators and transporters who direct shipments of off-specification used oil to processor/re-refiners who incidentally burn used oil are not marketers subject to this subpart;

(2) Persons who direct shipments of on-specification used oil and who are not the first person to claim the oil meets the used oil fuel specifications of 279.11.

c. Any person subject to the requirements of this subpart must also comply with one of the following:

(1) Subpart C: Standards for Used Oil Generators;

(2) Subpart E: Standards for Used Oil Transporters and Transfer Facilities;

(3) Subpart F: Standards for Used Oil Processors and Re-refiners; or

(4) Subpart G: Standards for Used Oil Burners who Burn Off-Specification Used Oil for Energy Recovery.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995. Amended by State Register Volume 40, Issue No. 6, Doc. No. 4613, eff June 24, 2016.

279.71. Prohibitions.

A used oil fuel marketer may initiate a shipment of off-specification used oil only to a used oil burner who:

a. Has an EPA identification number and a Department permit number; and

b. Burns the used oil in an industrial furnace or boiler identified in 279.61.a. of this regulation.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.72. On-specification Used Oil Fuel.

a. A generator, transporter, processor/re-refiner, or burner may determine that used oil that is to be burned for energy recovery meets the fuel specifications of 279.11 of this regulation by performing

analyses or obtaining copies of analyses or other information documenting that the used oil fuel meets the specifications.

b. A generator, transporter, processor/re-refiner, or burner who first claims that used oil that is to be burned for energy recovery meets the specifications for used oil fuel under 279.11 of this regulation, must keep copies of analyses of the used oil (or other information used to make the determination) for three (3) years.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

279.73. Notification.

a. Used oil fuel marketers must have an EPA identification number.

b. A marketer who has not received an EPA identification number may obtain one by notifying the Department of their used oil activity by submitting a completed SCDES Form 2701.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995. Amended by State Register Volume 40, Issue No. 6, Doc. No. 4613, eff June 24, 2016; SCSR 49-5 Doc. No. 5328, eff May 23, 2025.

279.74. Tracking.

a. Any used oil marketer who directs a shipment of off-specification used oil to a burner must keep a record of each shipment of used oil to a used oil burner. Records for each shipment must include the following information:

- (1) The name and address of the transporter who delivers the used oil to the burner;
- (2) The name and address of the burner who will receive the used oil;
- (3) The EPA identification number and the Department registration number of the transporter who delivers the used oil to the burner;
- (4) The EPA identification number and the Department permit number of the burner;
- (5) The quantity of used oil shipped; and
- (6) The date of shipment.

b. A generator, transporter, processor/re-refiner, or burner who first claims that used oil that is to be burned for energy recovery meets the fuel specifications under 279.11 of this regulation must keep a record of each shipment of used oil. Records for each shipment must include the following information:

- (1) The name and address of the facility receiving the shipment;
- (2) The quantity of used oil fuel delivered;
- (3) The date of shipment or delivery; and
- (4) A cross-reference to the record of used oil analysis or other information used to make the determination that the oil meets the specification as required under 279.72.a.

c. The records described in paragraphs a. and b. of this section must be maintained for at least three (3) years.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995. Amended by State Register Volume 40, Issue No. 6, Doc. No. 4613, eff June 24, 2016.

279.75. Notices.

a. Before a used oil generator, transporter, or processor/re-refiner directs the first shipment of off-specification used oil fuel to a burner, he must obtain a one-time written and signed notice from the burner certifying that:

- (1) The burner has notified the Department stating the location and general description of used oil management activities; and
- (2) The burner will burn the off-specification used oil only in an industrial furnace or boiler identified in 279.61.a.

b. The certification described in paragraph a. of this section must be maintained for three (3) years from the date the last shipment of off-specification used oil is shipped to the burner.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

SUBPART I
DISPOSAL OF USED OIL.

279.80. Applicability.

The requirements of this subpart apply to all used oils that cannot be recycled and are therefore being disposed at a solid waste management facility.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995. Amended by State Register Volume 40, Issue No. 6, Doc. No. 4613, eff June 24, 2016.

279.81. Disposal.

a. Used oils that are identified as a hazardous waste and cannot be recycled in accordance with this regulation must be managed in accordance with the hazardous waste management requirements of R.61-79.260 through 266, 268, 270 and 124.

b. Used oils that are identified as a non-hazardous waste must be disposed of by delivery to a used oil collection facility, used oil energy recovery facility, used oil fuel burner or to an authorized agent for delivery to a used oil collection facility, used oil energy recovery facility, used oil fuel burner or oil recycling facility.

c. Used oils that are not hazardous wastes and cannot be recycled under this part, must be disposed in accordance with the requirements of R.61-107.19 or another regulation promulgated pursuant to S.C. Code Ann. Section 44-96-10, et seq. (1976, as amended).

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995. Amended by State Register Volume 40, Issue No. 6, Doc. No. 4613, eff June 24, 2016.

SUBPART J
RETAIL SALES REQUIREMENTS.

279.90. Retail Sales Requirements.

a. Any motor, lubricating, or other oil offered for sale, at retail or at wholesale for direct retail sale, for use off the premises, shall be clearly marked or labeled as containing a recyclable material which must be disposed of only at a used oil collection facility. A statement on a container of lubricating or other oil offered for sale is in compliance with this section if it contains the following statement: 'Don't pollute. Conserve resources. Return used oil to collection centers.'

b. Motor oil retailers shall post and maintain, at or near the point of sale, a durable and legible sign, not less than eleven (11) inches by fifteen (15) inches in size, informing the public of the importance of the proper collection and disposal of used oil and how and where used oil may be properly disposed.

c. The Department may inspect any place, building, or premises subject to this subpart and issue warnings and citations to any person who fails to comply with the requirements of this subsection.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

SUBPART K
MONITORING.

279.91. Monitoring.

Should the Department confirm environmental and/or health problems associated with the collection, aggregation, storage, transportation, processing, re-refining or recycling of used oil, monitoring (including groundwater, surface water, and air quality monitoring and analysis, and product quality testing and analysis) may be required by the Department as appropriate and based on a case by case evaluation to ensure protection of the environment.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

SUBPART L
USED OIL FILTER MANAGEMENT.

279.92. Used Oil Filter Management.

a. Non-terne plated used oil filters that are not mixed with a hazardous waste as listed in R.61-79, may be disposed of in a municipal solid waste landfill provided all used oil filters are hot-drained for a minimum of twelve (12) hours using one of the following methods:

- (1) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining.
- (2) Dismantling and hot-draining; or
- (3) Any other equivalent hot-draining method which will remove used oil.

b. Used oil filters which are compacted to their smallest practical volume do not require hot-draining prior to disposal, provided the used oil is collected during crushing.

c. The used oil drained from the oil filters shall be processed, re-refined or otherwise recycled.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

SUBPART M
VIOLATIONS AND PENALTIES.

279.93. Violations and Penalties.

A violation of this regulation, or any permit or order issued pursuant to or in accordance with this regulation, subjects a violator to the issuance of a Department order, a civil penalty, or to a criminal enforcement action in accordance with S.C. Code Ann., Section 44-96-100, as amended.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995. Amended by State Register Volume 40, Issue No. 6, Doc. No. 4613, eff June 24, 2016.

SUBPART N
SEVERABILITY.

279.94. Severability.

Should any section, paragraph, sentence, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

HISTORY: Added by State Register Volume 19, Issue No. 7, eff July 28, 1995.

SUBPART O
VARIANCES.

279.95. Variances.

Any request for variances to these rules and regulations must be directed in writing to, and will be considered by the Department, on an individual basis.

61-108. STANDARDS FOR LICENSING FREESTANDING OR MOBILE TECHNOLOGY. [TRANSFERRED]

(Statutory Authority: S.C. Code Ann. § 44-7-265 (1976, as amended))

SECTION 100

DEFINITIONS, REFERENCES, AND LICENSE REQUIREMENTS [Transferred]

101. Transferred.

HISTORY: Former Regulation, titled Definitions, had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.101.

102. Transferred.

HISTORY: Former Regulation, titled References, had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.102.

103. Transferred.

HISTORY: Former Regulation, titled License Requirements (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.103.

SECTION 200

ENFORCING REGULATIONS [Transferred]

201. Transferred.

HISTORY: Former Regulation, titled General, had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.201.

202. Transferred.

HISTORY: Former Regulation, titled Inspections/Investigations, had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.202.

203. Transferred.

HISTORY: Former Regulation, titled Consultations, had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.203.

SECTION 300

ENFORCEMENT ACTIONS [Transferred]

301. Transferred.

HISTORY: Former Regulation, titled General, had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.301.

302. Transferred.

HISTORY: Former Regulation, titled Violation Classifications, had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.302.

SECTION 400

POLICIES AND PROCEDURES [Transferred]

401. Transferred.

HISTORY: Former Regulation, titled General (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.401.

SECTION 500

STAFF [Transferred]

501. Transferred.

HISTORY: Former Regulation, titled General (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.501.

502. Transferred.

HISTORY: Former Regulation, titled On-Site Manager (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.502.

503. Transferred.

HISTORY: Former Regulation, titled Medical Director (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.503.

504. Transferred.

HISTORY: Former Regulation, titled Medical Staff (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.504.

505. Transferred.

HISTORY: Former Regulation, titled Qualifications (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.505.

506. Transferred.

HISTORY: Former Regulation, titled Inservice Training (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.506.

507. Transferred.

HISTORY: Former Regulation, titled Health Status (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.507.

SECTION 600

REPORTING [Transferred]

601. Transferred.

HISTORY: Former Regulation, titled Incidents/Accidents (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.601.

602. Transferred.

HISTORY: Former Regulation, titled Fire/Disasters (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.602.

603. Transferred.

HISTORY: Former Regulation, titled Communicable Diseases (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.603.

604. Transferred.

HISTORY: Former Regulation, titled On-site Manager Change, had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.604.

605. Transferred.

HISTORY: Former Regulation, titled Joint Annual Report, had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.605.

606. Transferred.

HISTORY: Former Regulation, titled Accounting of Controlled Substances and Devices (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.606.

607. Transferred.

HISTORY: Former Regulation, titled Equipment Change, had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.607.

608. Transferred.

HISTORY: Former Regulation, titled Equipment Location Closure, had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.608.

SECTION 700

PATIENT RECORDS [Transferred]

701. Transferred.

HISTORY: Former Regulation, titled Content (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.701.

702. Transferred.

HISTORY: Former Regulation, titled Record Maintenance, had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.702.

SECTION 800

CARE/TREATMENT/PROCEDURES/SERVICES [Transferred]

801. Transferred.

HISTORY: Former Regulation, titled General (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.801.

802. Transferred.

HISTORY: Former Regulation, titled Anesthesia Services (If Provided) (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.802.

803. Transferred.

HISTORY: Former Regulation, titled Licensees Utilizing Ionizing Radiation (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.803.

804. Transferred.

HISTORY: Former Regulation, titled Laboratory Services (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.804.

805. Transferred.

HISTORY: Former Regulation, titled Adverse Conditions (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.805.

806. Transferred.

HISTORY: Former Regulation, titled Patient Instruction (If applicable) (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.806.

SECTION 900

RIGHTS AND ASSURANCES [Transferred]

901. Transferred.

HISTORY: Former Regulation, titled General (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.901.

SECTION 1000

MEDICATION MANAGEMENT [Transferred]

1001. Transferred.

HISTORY: Former Regulation, titled General (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.1001.

1002. Transferred.

HISTORY: Former Regulation, titled Medication Orders (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.1002.

1003. Transferred.

HISTORY: Former Regulation, titled Administering Medication (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.1003.

1004. Transferred.

HISTORY: Former Regulation, titled Pharmacy Services (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.1004.

1005. Transferred.

HISTORY: Former Regulation, titled Medication Containers (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.1005.

1006. Transferred.

HISTORY: Former Regulation, titled Medication Storage (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.1006.

1007. Transferred.

HISTORY: Former Regulation, titled Disposition of Medications (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.1007.

SECTION 1100

EMERGENCY PROCEDURES/DISASTER PREPAREDNESS [Transferred]

1101. Transferred.

HISTORY: Former Regulation, titled Emergency Services (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1101.

1102. Transferred.

HISTORY: Former Regulation, titled Disaster Preparedness (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1102.

1103. Transferred.

HISTORY: Former Regulation, titled Emergency Call Numbers (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1103.

SECTION 1200

FIRE PREVENTION [Transferred]

1201. Transferred.

HISTORY: Former Regulation, titled Arrangements for Fire Department Response/Protection (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1201.

1202. Transferred.

HISTORY: Former Regulation, titled Tests and Inspections (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1202.

1203. Transferred.

HISTORY: Former Regulation, titled Fire Response Training (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1203.

1204. Transferred.

HISTORY: Former Regulation, titled Fire Drills (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1204.

SECTION 1300

EQUIPMENT MAINTENANCE [Transferred]

1301. Transferred.

HISTORY: Former Regulation, titled General (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1301.

1302. Transferred.

HISTORY: Former Regulation, titled Equipment (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1302.

1303. Transferred.

HISTORY: Former Regulation, titled Preventive Maintenance of Life Support Equipment (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1303.

SECTION 1400

INFECTION CONTROL AND ENVIRONMENT [Transferred]

1401. Transferred.

HISTORY: Former Regulation, titled Staff Practices (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1401.

1402. Transferred.

HISTORY: Former Regulation, titled Vaccinations (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1402.

1403. Transferred.

HISTORY: Former Regulation, titled Sterilization (If applicable) (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1403.

1404. Transferred.

HISTORY: Former Regulation, titled Tuberculin Screening (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1404.

1405. Transferred.

HISTORY: Former Regulation, titled Housekeeping (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1405.

1406. Transferred.

HISTORY: Former Regulation, titled Infectious Waste (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1406.

1407. Transferred.

HISTORY: Former Regulation, titled Clean/Soiled Linen (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1407.

SECTION 1500

QUALITY IMPROVEMENT PROGRAM [Transferred]

1501. Transferred.

HISTORY: Former Regulation, titled General (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1501.

SECTION 1600

DESIGN AND CONSTRUCTION [Transferred]

1601. Transferred.

HISTORY: Former Regulation, titled General (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1601.

1602. Transferred.

HISTORY: Former Regulation, titled Local and State Codes and Standards (II), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-108.1602.

SECTION 1700

FIRE PROTECTION EQUIPMENT AND SYSTEMS [Transferred]

1701. Transferred.

HISTORY: Former Regulation, titled Firefighting Equipment (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.1701.

1702. Transferred.

HISTORY: Former Regulation, titled Flammable Liquids (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.1702.

1703. Transferred.

HISTORY: Former Regulation, titled Gases (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.1703.

1704. Transferred.

HISTORY: Former Regulation, titled Furnishings/Equipment (I), had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.1704.

SECTION 1800

MOBILE UNITS [Transferred]

1801. Transferred.

HISTORY: Former Regulation, titled Care/Services, had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.1801.

SECTION 1900

SEVERABILITY [Transferred]

1901. Transferred.

HISTORY: Former Regulation, titled General, had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.1901.

SECTION 2000

GENERAL [Transferred]

2001. Transferred.

HISTORY: Former Regulation, titled General, had the following history: Added by State Register Volume 28, Issue No. 5, eff May 28, 2004. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–108.2001.

61–109. Transferred.

HISTORY: Former Regulation, titled Standards for Permitting Body Piercing Facilities, had the following history: Added by State Register Volume 26, Issue No. 5, Part 1, eff May 24, 2002. Amended by State Register Volume 40, Issue No. 5, Doc. No. 4569, eff May 27, 2016. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–109.

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

(Statutory Authority: 1976 Code §§ 48–1–10 et seq., 48–6–10 et seq., and 2023 Act No. 60, effective July 1, 2024)

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A. Purpose and Scope.

(1) Section 48–1–50(20), S.C. Code of Laws (1976), authorizes the Department to conduct investigations of conditions in the air or waters of the State to determine whether or not standards are being contravened and the origin of materials which are causing the polluted condition. Section 48–1–50(6) authorizes the Department to conduct studies, investigations and research with respect to pollution abatement, control or prevention.

(2) The Department establishes Total Maximum Daily Loads (TMDLs) for pollutants in waters of the state, including those listed in accordance with the Federal Water Pollution Control Act (Public Law 92 500, as amended by Pub. L. 95–217, Pub. L. 95–276, Pub. L. 96–483, Pub. L. 97–117, and Pub. L. 100–4; 33 U.S.C. 1251 et seq.) Section 303(d) (33 USC Section 1313(d)) and 40 CFR Part 130. These regulations establish the process for public participation in and administrative appeal of TMDLs developed under section 303(d) of the Act.

B. Definitions.

(1) Other than those terms defined below, any term used in this regulation shall mean the same as defined in S.C. Regulation 61–68 or Section 48–1–10 et seq. of the Code of Laws, 1976, as amended.

(2) “Total Maximum Daily Load” (TMDL) means a written quantitative analysis of water quality for a pollutant at one or more sites in a watershed. A TMDL shall include identification of the pollutant, a calculation of the maximum amount of the pollutant that a waterbody can receive and still meet state water quality standards, load allocations for nonpoint sources and natural background, individual or categorical wasteload allocations for point sources, and a margin of safety.

(3) “Margin of safety” means a consideration of any lack of knowledge concerning the relationship between load and wasteload allocations and water quality. The margin of safety may be implicit, i.e., incorporated into the TMDL through conservative assumptions in the analysis, or explicit, i.e., expressed in the TMDL as a specific loading, or both. If the margin of safety is implicit, the conservative assumptions in the analysis that account for it shall be described. If the margin of safety is explicit, the loading set aside shall be identified. The Department shall present a detailed justification and rationale for use of the selected margin of safety.

C. Public Notice

(1) A notice will be published on the Department website or equivalent publicly available electronic media, when available, upon commencement of development of each TMDL, until such time as a draft is completed or the Department elects not to proceed with TMDL development, to solicit data and information in support of TMDL development. All data and information submitted, including characterizations of local conditions that affect attainment of water quality standards, shall be considered by the department before completing the TMDL and answered in a responsiveness summary that would be included in the TMDL.

(2) A public notice of each initial draft TMDL shall provide at least thirty (30) days from the date of notice within which interested persons may submit their views and information concerning the TMDL to the Department. The comment period shall be extended for an additional 30 days if a request is made in the initial 30 day comment period by any party, including an affected local public

body. Comments will be considered in development of the final draft TMDL and addressed in a responsiveness summary, which will be provided to all commenters.

(3) Public notice of the draft TMDL shall be made by each of the following methods:

(a) publication of a notice in a daily or weekly newspaper within or near the area included in the TMDL; and

(b) notification of anyone who has specifically requested public notices. The list of such persons may be updated periodically and persons will be deleted who fail to respond to Department requests to identify continued interest; and

(c) publication on the Department website or equivalent publicly available electronic media, when available.

(4) All information supporting the TMDL, such as, but not limited to, data, models, inputs, and output, shall be available upon request from the outset of the public comment period.

D. Public Informational Hearing

(1) Any person may request a public informational hearing during the public comment period discussed in Article C.(1) above. Requests shall be in writing and shall state the nature of the issues to be raised at the informational hearing.

(2) The Department shall hold a public informational hearing upon request through an affirmative vote by an elected or appointed public body, or whenever fifteen (15) or more individual written requests are received during the public comment period and which raise issues specifically related to the development of the TMDL. An informational hearing may also be held whenever the Department staff determines that it may be beneficial. Such informational hearing will be conducted by Department staff.

(3) A notice of informational hearing shall be mailed to those persons providing comment in response to the public notice at least fifteen (15) days prior to the informational hearing.

(4) The close of the comment period shall be at the end of the informational hearing or later date if so specified by the Department.

(5) All public informational hearings shall be reported verbatim. A copy of the transcript shall be made available upon request.

E. Notice of Decision

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

F. Administrative Appeal Process

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

(2) A person desiring to appeal a TMDL must submit a written request within thirty (30) days in accordance with S.C. Code of Laws Section 48-6-30. The request must set forth the manner in which the person requesting the hearing would be injured by issuance of the TMDL.

(3) Upon timely request for a hearing, the matter shall be heard as a "contested case" under the South Carolina Administrative Procedures Act, and shall be processed according to law. Determinations of whether a person has legal standing to contest a determination shall be made in the course of the contested case proceeding.

G. Revisions to an Approved TMDL

The Department may revise an approved TMDL to accommodate new information. Revisions to load or wasteload allocations in approved TMDLs shall be subject to the same public participation and administrative appeal processes set forth herein.

H. Severability

Should any section, paragraph, sentence, word, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

HISTORY: Added by State Register Volume 29, Issue No. 5, eff May 27, 2005. Amended by SCSR 49-5 Doc. No. 5333, eff May 23, 2025.

61-111. Transferred.

HISTORY: Former Regulation, titled Standards for Licensing Tattoo Facilities, had the following history: Added by State Register Volume 30, Issue No. 3, eff March 24, 2006. Amended by State Register Volume 40, Issue No. 5, Doc. No. 4568, eff May 27, 2016. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-111.

61-112. Transferred.

HISTORY: Former Regulation, titled Implementation of Emergency Health Powers Act, had the following history: Added by State Register Volume 30, Issue No. 3, eff March 24, 2006. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-112.

61-113. Groundwater Use and Reporting.

(Statutory Authority: 1976 Code §§ 49-5-10 et seq., 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024)

A. Purpose and Scope

Regulation 61-113, *et seq.* is promulgated pursuant to the Groundwater Use and Reporting Act, S.C. Code Ann. Sections 49-5-10 *et seq.* (1976 Code of Laws, as amended), and is known as the Groundwater Use and Reporting Regulation. The Department finds the standards and procedures prescribed are necessary to maintain, conserve and protect the groundwater resources of the State. Designation of capacity use areas shall be in accordance with the Groundwater Use and Reporting Act, S.C. Code Ann. Sections 49-5-60 (1976 Code of Laws, as amended).

B. Definitions

Unless the context otherwise requires, as used in this regulation:

1. “Abandoned well” means a well where the pump has been disconnected for reasons other than repair or replacement and whose use has been discontinued for a period of one year, or has been pronounced as abandoned by the owner or operator.
2. “Annular space” means the space between the well casing and the formation or the space between the outer casing and the inner casing in a well where two or more casings are used.
3. “Aquifer” means a geologic formation, group of these formations, or part of a formation that contains sufficient saturated permeable material to yield significant quantities of groundwater to wells and springs.
4. “Aquifer storage and recovery (ASR)” means a water well which allows potable water to be injected into a subsurface aquifer to be recovered by pumping at a later date.
5. “Artificial filter or gravel-pack” means specially graded filter material that is placed in the annular space to increase the effective diameter of the well and to prevent fine-grained sediments from entering the well.
6. “Artificial-filter or gravel-packed well” means a screened well that is constructed with artificially emplaced filter material in the annular space between the well screen(s) and borehole wall.
7. “Available precipitation” for water use calculations means the annual average precipitation less annual average evapotranspiration.
8. “Bedrock” means the competent parent solid rock formation (crystalline, metamorphic, limestone) underlying weathered rock, soil, and sediments.
9. “Best Management Plan” means a document that supports the design, installation, maintenance, and management of water conveyance systems and/or water withdrawal systems (water supply, commercial, industrial, agricultural, etc.), which promotes water conservation, and protects water quality.

10. Reserved.

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

12. "Certified Well Driller" means any person duly and currently registered by the S.C. Department of Labor, Licensing, and Regulation to practice as a well driller in South Carolina.

13. "Coastal Plain" means:

a. All of Aiken, Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Clarendon, Colleton, Darlington, Dillon, Dorchester, Florence, Georgetown, Hampton, Horry, Jasper, Lee, Marion, Marlboro, Orangeburg, Sumter, and Williamsburg counties; and

b. Those portions of Chesterfield, Edgefield, Kershaw, Lexington, Richland, and Saluda counties east or southeast of the fall line as identified on the best available geologic map.

14. "Cone of depression" means the deviation of the hydraulic gradient from the normal path of groundwater flow (potentiometric surface) converging towards a pumping well or system of wells.

15. "Confining bed" means a strata of relatively impermeable material having distinctly lower hydraulic conductivity stratigraphically adjacent to one or more aquifers.

16. "Consumptive use" means any use of withdrawn groundwater other than a non-consumptive use, as defined in this section.

17. "Department" means the S.C. Department of Environmental Services.

18. "Dewatering operation" means an operation that is withdrawing groundwater from an aquifer for the purpose of draining an excavation or preventing or retarding groundwater flow into an excavation. This operation includes, but is not limited to, mining, water and sewer line construction, and excavating for a building foundation.

19. "Domestic well" means an individual residential or irrigation well intended to supply water to a single family dwelling for routine household purposes, lawns, or gardens.

20. "Drawdown" means the difference in levels between the static water level in a well and the surface of the depressed water level that occurs when the well is pumped.

21. "Effluent" means water conveyed out of a wastewater treatment facility or other works used for the purpose of treating, stabilizing, or holding wastewater.

22. "Emergency withdrawal" means the withdrawal of groundwater, for a period not exceeding thirty calendar days, for the purpose of fire fighting, hazardous substance or waste spill response, or both, or other emergency withdrawal of groundwater as determined by the Department.

23. "Evapotranspiration" means a collective term that includes water discharged to the atmosphere as a result of evaporation from the soil and surface water bodies and as a result of plant transpiration.

24. "Flowing well" means a well releasing groundwater under such pressure that pumping is not necessary to bring it above the ground surface.

25. "Geophysical log" means a continuous record from an instrument that measures physical, chemical, electrical, or radioactive properties of subsurface geological formations or groundwater contained in these formations.

26. "Groundwater" means subsurface water found in the void spaces of geologic materials within the zone of saturation.

27. "Groundwater withdrawal permit" means a permit issued by the Department to groundwater withdrawers in designated Capacity Use Areas for the withdrawal of groundwater.

28. "Groundwater withdrawer" means a person withdrawing groundwater in excess of three million gallons during any one month from a single well or from multiple wells under common ownership within a one-mile radius from any one existing or proposed well.

29. "Industrial Well" means a well used for supplying water to an industrial or commercial operation or establishment whose ultimate use of the water is for processing, manufacturing, cooling, or similar industrial process.

30. "Irrigation requirement" means the total amount of water required at the field to produce a specific crop or maintain a healthy, functional turf or landscape.

31. "Irrigation well" includes, but is not limited to, a well used for supplying water for agricultural, commercial or aesthetic irrigation, and livestock operations.

32. "Limestone" means a sedimentary formation composed chiefly of calcium carbonate, consolidated or unconsolidated, which may be in the form of shell pieces or calcareous muds or sands.

33. "Marl" means calcareous clays. In South Carolina, the term is mostly applied to the Cooper Marl of Eocene Age, characterized by its dark greenish drab to grayish green color.

34. "Non-consumptive use" means the use of water from an aquifer that is returned to the aquifer from which it was withdrawn, at or near the point from which it was withdrawn, without substantial diminution in quantity or quality.

35. "Permit to construct" means a permit for well construction issued by the Department after consideration of, among other things, proposed well location, depth, rated capacity, withdrawal rate, and existing water withdrawals.

36. "Permittee" means a person having obtained a permit to construct or a groundwater withdrawal permit issued in accordance with these regulations.

37. "Person" means an individual, firm, partnership, association, public or private institution, municipality or political subdivision, local, state, or federal government agency, department, or instrumentality, public water system, or a private or public corporation organized under the laws of this State or any other state or county.

38. "Public water system" means a water system as defined in the State Safe Drinking Water Act, S.C. Code Ann. Section 44-55-20 (1976 Code of Laws, as amended).

39. "Pumping water level" means the distance, usually measured in feet, from the land surface or other permanent specified datum to the water surface (water level) in a well being pumped.

40. "Rated capacity" means the amount, in gallons per minute (gpm), of groundwater that is withdrawn or capable of being withdrawn from the completed well with the pump installed.

41. "Saltwater" means water containing concentrations of chloride and total dissolved solids in excess of standards as defined in S.C. R.61-58, State Primary Drinking Water Regulation.

42. "Saltwater intrusion" means the movement of saltwater into a freshwater aquifer.

43. "Surface water" means all water that is open to the atmosphere and subject to surface runoff, which includes lakes, streams, ponds, and reservoirs.

44. "Static water level" means the distance, usually measured in feet, from the land surface or other permanent specified datum to the water surface (water level) in a non-pumping well.

45. "Well" means an excavation that is cored, bored, drilled, jetted, dug hole, driven shaft, or otherwise constructed whose depth is greater than the largest surface dimension from which water is extracted or injected for the purpose of locating, testing, or withdrawing groundwater or for evaluating, testing, developing, draining, or recharging a groundwater reservoir or aquifer, or that may control, divert, or otherwise cause the movement of groundwater from or into an aquifer. Wells typically fall into one of the following types of construction:

- a. Type I, open hole wells completed in crystalline bedrock aquifers;
- b. Type II, screened, natural filter wells completed in unconsolidated aquifers;
- c. Type III, screened, gravel-packed wells completed in unconsolidated aquifers;
- d. Type IV, open hole wells completed in consolidated limestone aquifers; and
- e. Type V, bored or dug well having large diameter.

46. "Well interference" means the instance where cones of depression from two or more wells overlap creating an additive drawdown in the affected area.

C. Applicability of Regulations

The standards contained herein apply to all persons who withdraw or are capable of withdrawing groundwater in excess of three million gallons in any given month from a well or multiple wells under

common ownership within a one-mile radius from any one existing or proposed well in South Carolina. These regulations do not change or modify previous Capacity Use Area designations.

D. Permits and Registrations Required

1. Before a groundwater withdrawer or proposed groundwater withdrawer in a designated capacity use area can construct a new well or increase the rated capacity of an existing well, an application for a permit to construct shall be made to, and a permit to construct obtained from, the Department unless exempt pursuant to Section J.

2. Before a person may become a groundwater withdrawer in a designated capacity use area, an application for a groundwater withdrawal permit shall be made to, and a groundwater withdrawal permit obtained from, the Department unless exempt pursuant to Section J.

3. Before a groundwater withdrawer or proposed groundwater withdrawer outside a designated capacity use area in the Coastal Plain can construct a new well or increase the rated capacity of an existing well, a Notice of Intent shall be made to the Department at least thirty days prior to initiating the action, unless exempt pursuant to Section J.

4. All groundwater withdrawers in the State shall register their groundwater withdrawal and subsequent use with the Department.

5. A groundwater withdrawer outside a designated capacity use area shall register all new wells with the Department within thirty days after initiating use of the wells.

E. Permit Application

1. A person who is required to obtain a Groundwater Withdrawal Permit for an existing or proposed groundwater withdrawal or use under Section D shall submit a permit application on forms, furnished upon request, by the Department. The applicant shall furnish the Department, as determined by the Department, with sufficient documented evidence as described in Section E to aid in evaluating the effect of the existing or proposed groundwater withdrawal or use on the water resources of the Capacity Use Area.

2. Sufficient documented evidence shall include, but not be limited to, the following:

a. Name, address, and phone number of applicant who shall be the owner and his applicable agent, professional engineer or professional geologist, as appropriate;

b. Location of all existing and/or proposed wells, properly identified, for which the permit is requested, marked on the best available map, which may be a portion or copy of a United States Geological Survey 7 ½ (seven and one-half) minute quadrangle map, latest county highway map, or more detailed map or aerial photography, where required by the Department, provided the map or aerial photography submitted is clearly identified;

c. The latitude and longitude of all wells, obtained from the location map or by acceptable Global Positioning System (GPS) instrumentation;

d. As-built construction details of all wells to include, but not limited to, the following;

1. Name of driller;

2. Date of drilling;

3. Total depth of well (in feet);

4. Diameter of drilled hole;

5. Diameter, depth, and type of casing;

6. Depth (length) of grouting;

7. Depth and diameter of well screen(s), if used, and the material, type, and diameter of screen openings;

8. Type of pump, size (horsepower), and performance curves;

9. Static water level and pumping water level; and

10. Number of hours per day the well(s) is pumped.

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

f. Copy of geophysical/mechanical logs, if available;

- g. The ground elevation of the well(s), if available;
 - h. The location of all abandoned or unused well(s) owned or under the control of the applicant;
 - i. The proposed amount of groundwater withdrawal (in million gallons) per year;
 - j. A "Best Management Plan" for water use and water conservation designed to protect water quality and reduce water consumption to include, but not limited to, the following, as applicable;
 - 1. Reasonable and appropriate conservation techniques, application processes, and alternate sources of water, including but not limited to, surface water(s) and/or availability of treated effluent, to minimize or eliminate groundwater sources;
 - 2. Based on the current and/or proposed withdrawal rates, provide reasonable and appropriate documentation that the proposed water use is necessary to the anticipated needs of the applicant to include, but not limited to, the following;
 - a. Public Water Supply- by system, population served, anticipated growth, annual water use statistics (e.g., monthly average, peak summer/winter consumption);
 - b. Industrial Water Supply- by industry type, anticipated growth, and annual water use statistics (e.g., monthly average, peak summer/winter consumption);
 - c. Irrigation Water Supply- irrigated acreage, major crops (with irrigated acreage for each crop), water use by crop (per acre), calculated irrigation requirement (including available precipitation), critical period growth requirements, growing season, and nutrient and pest management strategy;
 - d. Golf Course Irrigation Water Supply- irrigated acreage (differentiating actual golf course areas and aesthetic landscaping), water use per acre, calculated irrigation requirement (including available precipitation), annual water use statistics (e.g., monthly average, peak summer/winter consumption), and nutrient and pest management strategy;
 - e. Aquaculture Water Supply- pond capacity (acre-feet), make-up water requirement, drain-fill periodicity, (e.g., monthly average, peak summer/winter consumption).
 - 3. Maintenance schedule to preserve the integrity and efficient operation of water conveyance system(s); and
 - 4. A statement specifying the beneficial use of the groundwater being withdrawn as necessary to meet the reasonable needs of the applicant.
 - k. Historical water use information;
 - l. Availability of alternate water sources;
 - m. Any present or anticipated unreasonable adverse or potential adverse effects on other water uses or users, including, but not limited to, adverse effects on public use; and
 - n. Permitted effluent discharges in accordance with a valid NPDES Discharge Permit.
3. In addition to the information required under Section E.2. above, applicants proposing new well construction or increasing the rated capacity of an existing well or wells shall provide proposed well construction details and technical specifications or pump specifications, including, but not limited to, the following:
- a. Name of driller, if known;
 - b. Date of drilling, if known;
 - c. Total depth of well (in feet);
 - d. Diameter of drilled hole;
 - e. Diameter, depth, and type of casing;
 - f. Depth of grouting - the minimum length of grout to protect the aquifer utilized, unless demonstrated that an alternate grout length is as protective, shall be;
 - 1. Type II and III, the first confining bed (clay, marl, etc.) immediately above the aquifer being utilized or to within ten (10) feet of the uppermost screen when no confining bed is encountered;
 - 2. Type IV, twenty (20) feet into firm limestone or firm marl, whichever is less.

g. Depth and diameter of the open hole or well screen(s), if used, and the material, type, and diameter of screen openings. The open hole or screen setting(s) shall not connect aquifers or zones with documented differences in water quality or result in or create the potential for contamination of any aquifer or zone or cause depletion or significant loss of head in any aquifer or zone;

h. Type of pump, size (horsepower), and performance curves;

i. Deep well airline of steel, iron, or heavy gauge copper material, or an access port not less than one-half inch in diameter, with screw cap for water-level measurements; and

j. Filling, plugging, and sealing procedures for any well(s) that are to be abandoned in accordance with Section N.

4. In addition to the information and standards required under Section E.2 and Section E.3 above, applicants proposing new well construction must comply with requirements established in S.C. R.61-44, South Carolina Individual Residential Well & Irrigation Permitting, and, at a minimum, comply with the S.C. R.61-71, South Carolina Well Standards, as appropriate.

F. Department Actions on Permit Applications, Modifications, Revocation and Denials

1. In considering all permit applications, modifications, and revocations, the Department shall consider, but not be limited to, the following:

a. The number of persons using an aquifer and the object, extent, and necessity of their respective withdrawals or uses;

b. The nature and size of the aquifer;

c. The physical and chemical nature of any impairment of the aquifer adversely affecting its availability or viability for other water uses, including public use;

d. The severity and duration of such impairment under foreseeable conditions;

e. The injury to public health, safety, or welfare which may result if such impairment were not prevented or abated;

f. The kinds of businesses or activities to which the various uses are related;

g. The relative importance and necessity of uses claimed by permit holders and permit applicants, or of the water use of the area, and the extent of injury or detriment caused or reasonably expected to be caused to other water uses, including public use;

h. Diversion from or reduction of flows in surface water or other aquifers;

i. Information provided by the applicant in accordance with Section E;

j. An approved local or regional Groundwater Management Strategy; and

k. Any other relevant factors, such as, but not limited to, public comments and best available geologic and hydrologic information on the aquifer or aquifers of the area.

2. In each case where an applicant for a Groundwater Withdrawal Permit demonstrates to the Department's satisfaction that the groundwater withdrawal is reasonable and necessary to meet the applicant's requirements and where there are no unreasonable adverse effects on other water users, including public use, and including potential as well as current use, a Groundwater Withdrawal Permit may be issued by the Department and contain, but not be limited to, the following conditions:

a. Amount of groundwater to be withdrawn or used;

b. Well(s) to be utilized;

c. Aquifer(s) to be utilized;

d. Well spacing to minimize well interference; and

e. Monitoring well(s) to be installed for monitoring groundwater levels and water quality.

3. Groundwater withdrawn under any permit shall be used only for the purposes set forth in the permit.

4. The Department may grant a temporary Groundwater Withdrawal Permit for up to one hundred eighty days or until a final decision is made on the application if an imminent hazard to public health exists or if an applicant demonstrates that physical or financial damage has occurred,

or will occur, if a temporary permit is not granted. The issuance of a temporary permit does not guarantee the issuance of a final Groundwater Withdrawal Permit.

5. The Department may:

a. Revoke a construction permit or a Groundwater Withdrawal Permit if it determines information in the permit application is false or misleading, the permittee fails to comply with the conditions set forth in the permit, or when there is found to be an unreasonable adverse effect upon the water uses or water users in the area, including public use, and including potential as well as current use, based upon considerations set forth in Section F;

b. Deny a permit if the application therefore or the effect of the water use proposed or described therein upon the water resources of the area is found to be contrary to the public interest or general welfare, based upon considerations in Section F; and

c. Revoke a temporary Groundwater Withdrawal Permit if the permittee fails to comply with the conditions of the temporary permit or provide timely response to requests for actions for information made pursuant to the application review.

6. The Department's denial or revocation of any permit shall be final unless a request for a contested case hearing is filed in accordance with the Administrative Procedures Act and the Rules of the Administrative Law Court.

7. A Groundwater Withdrawal Permit shall not be transferred to any other person or user except by modification of the permit in accordance with Section G.

8. Public notices shall be required for an:

a. Initial application for a Groundwater Withdrawal Permit in an existing capacity use area;

b. Application to modify an existing Groundwater Withdrawal Permit where an increase in the permitted withdrawal limit is requested;

c. Application to modify an existing Groundwater Withdrawal Permit where construction of a new well or wells, with concurrent increase in the permitted withdrawal limit, is requested; and

d. Application to renew an existing Groundwater Withdrawal Permit, where no increase in the permitted withdrawal limit is requested, only if the Department determines there is sufficient public interest on the proposed groundwater withdrawal.

9. Wording for public notices will be provided to the applicant by the Department and shall contain, but not be limited to, the following:

a. Applicant's name and mailing address;

b. Location of the well or wells;

c. Aquifers to be utilized;

d. Proposed withdrawal limit(s); and

e. Notice of thirty day comment period.

10. The applicant will publish the public notice, for one day, in a newspaper of general circulation in the area of the proposed withdrawal.

11. The applicant will provide an affidavit of publication from the newspaper to the Department within fifteen days of initial publication and a copy of the published notice.

12. The Department will notify currently permitted groundwater withdrawers of newly proposed groundwater withdrawal within a one-mile radius of the proposed well location. This notification will be provided at least thirty days prior to issuance of the final permit.

G. Permit Modifications

1. An application to modify a Groundwater Withdrawal Permit shall be required when:

a. The permittee desires to increase the permitted groundwater withdrawal limit;

b. The permittee desires to increase the rated capacity of a well or wells;

c. The permittee desires to construct a new well, unless exempt pursuant to Section J; or

d. There is a proposed change or transfer of ownership of the permitted entity.

2. Applications to modify a Groundwater Withdrawal Permit shall be made in compliance with the provisions in Section E. The Department may modify a permit after consideration of factors pursuant to Section F. If the Department determines that no modification will be granted, this determination shall be final unless a request for a contested case hearing is filed in accordance with the Administrative Procedures Act and the Rules of the Administrative Law Court.

H. Duration of Permits and Renewal

1. No permit shall be issued for a period longer than the following:

- a. Five (5) years;
- b. The period found by the Department necessary to conserve and protect the resource, prevent waste, and to provide and maintain conditions which are conducive to the development and use of water resources; or
- c. The temporary period as specified in Section F.

2. A Groundwater Withdrawal Permit shall be renewed by filing a completed application in compliance with Section E at least ninety days prior to its expiration. A Groundwater Withdrawal Permit that expires, with a completed application in compliance with Section E received by the Department at least ninety days prior to the expiration date, will continue to be valid until a decision is reached on the permit renewal application.

I. Groundwater Use Reports

1. Every permitted and registered groundwater withdrawer in the State shall annually, before January 30th, file with the Department a water use report on forms furnished by the Department or approved by the Department of the quantities of groundwater withdrawn. Failure to provide a groundwater use report is grounds for revocation of a permit.

2. Water use reports shall include, but not be limited to, the following:

- a. Name of permit holder and permit number;
- b. Use of the groundwater being withdrawn;
- c. Source of groundwater, identifying the well or wells utilized;
- d. Monthly quantity of water withdrawn from each well; and
- e. How the withdrawal was measured.

3. The quantity of groundwater withdrawn must be determined by one of the following:

- a. Flow meters accurate to within ten percent of calibration;
- b. Rated capacity of the pump in conjunction with the use of an hour meter, electric meter, or log;
- c. The rated capacity of a cooling system;
- d. Any standard or method employed by the United States Geological Survey in determining such quantities; or
- e. Any other method approved by the Department, which will provide reliable groundwater withdrawal data.

4. The groundwater withdrawer is not required to submit the groundwater withdrawal report required by Section I if the monthly quantity withdrawn from each well is being reported to the Department as a result of another environmental program reporting requirement, permit condition, or consent agreement.

J. Exemptions

1. The following are exempt from this regulation:

- a. Emergency withdrawal of groundwater;
- b. Any person withdrawing groundwater for non-consumptive uses;
- c. A person withdrawing groundwater for the sole purpose of wildlife habitat management; or
- d. A person withdrawing groundwater at a single-family residence or household for noncommercial use.

2. The following are exempt from the permitting of Section D and public notification requirements of Section F:

- a. Dewatering operations at mines;
- b. All other dewatering operations;
- c. Type I wells installed into crystalline bedrock in a designated capacity use area; or
- d. Groundwater withdrawer constructing a new well to replace an existing well with no increase in capacity or withdrawal amount.

3. Aquifer Storage and Recovery (ASR) wells are exempt from the requirements of this regulation if:

- a. A permit pursuant to S.C. R.61–87, Underground Injection Control Regulations, is obtained from the Department; and
- b. The amount of water withdrawn does not exceed the amount of water injected.

K. Saltwater Intrusion

1. To protect against or abate saltwater intrusion, the Department shall consider the best available information on the geologic and hydrologic characteristics of the aquifer or aquifers and the groundwater withdrawals of the area, and shall require water users to take such action as the Department deems necessary for its control.

2. Types of control measures the Department may require applicants, permit holders, and groundwater withdrawers to take may include, but not be limited to, the following:

- a. Pumping arrangements to reduce groundwater withdrawal in areas of concentrated pumping;
- b. Location of wells to eliminate or reduce groundwater withdrawals near zones of saltwater intrusion;
- c. Requirement of selective withdrawal from other available freshwater aquifers than those currently used;
- d. Selective curtailment or reduction of groundwater withdrawals where it is found to be in the public interest or general welfare or to protect the water resource;
- e. Conjunctive use of freshwater or saltwater aquifers, or waters of less desirable quality where water quality of a specific character is not essential;
- f. Construction and use of observation or monitor wells, drilled into freshwater aquifers between areas of groundwater withdrawal (or proposed areas of groundwater withdrawal) and sources of saltwater;
- g. Construction and use of wells, drilled into areas of intrusion, to intercept saltwater moving towards the center of excessive groundwater withdrawal;
- h. Construction and use of wells, drilled into the saltwater aquifer, to relieve hydraulic pressure causing saltwater intrusion in the aquifer;
- i. Abandonment of wells, in accordance with Section N, that have penetrated saltwater zones or zones of undesirable water quality and are determined by the Department to be causing contamination of freshwater aquifers;
- j. Prohibiting the hydraulic connection of saltwater and freshwater aquifers that could result in deterioration of water quality in a freshwater aquifer(s);
- k. Abandonment of wells, not covered under Section K.2.i., in accordance with Section N; and
- l. Such other necessary and appropriate control or abatement techniques as are technically feasible and have proven to be successful in other areas.

L. Unreasonable Adverse Effects on Other Water Users

1. To protect against or abate unreasonable adverse or potential unreasonable adverse effects on other water users within a designated capacity use area, including but not limited to adverse effects on public use, the Department shall consider the best available information on the geologic and hydrologic characteristics of the aquifer or aquifers and the groundwater withdrawals of the area,

and shall require groundwater users to take such action as the Department deems necessary and appropriate for its control.

2. Types of control measures which the Department may require applicants, permit holders, and groundwater withdrawers to take may include, but not be limited to, the following:

- a. Requirement of selective withdrawal from other available freshwater aquifers than those currently used;
- b. Pumping arrangements to reduce groundwater withdrawal in areas of concentrated pumping;
- c. Selective curtailment or reduction of groundwater withdrawals where it is found to be in the public interest or general welfare or to protect the water resource;
- d. Conjunctive use of aquifers, or waters of less desirable quality where water quality of a specific character is not essential;
- e. Construction and use of observation or monitor wells;
- f. Abandonment of wells, in accordance with Section N, that have penetrated zones of undesirable water quality where such wells are determined by the Department to be causing contamination of freshwater aquifers;
- g. Prohibiting the hydraulic connection of aquifers that could result in deterioration of water quality in a freshwater aquifer(s);
- h. Abandonment of wells, not covered under Section L.2.f., in accordance with Section N below;
- i. Require the applicants, permit holders, and groundwater withdrawers to cooperate with the Department and other groundwater users in the affected area, in determining and implementing reasonable and practical methods to conserve and protect the water resources and to avoid or minimize adverse effects of the quantity and quality of water available to persons whose water supply has been materially reduced or impaired as a result of groundwater withdrawals; and
- j. Such other necessary and appropriate control or abatement techniques as are technically feasible and have proven to be successful in other areas.

M. Hydrologic and Geologic Information

1. The Department may gather and/or require the submission of hydrologic and geologic information on the aquifer or aquifers in and adjacent to a designated capacity use area for the purpose of evaluating and managing the groundwater resource.

2. Required information may include, but not be limited to, the following:

- a. Surface and/or subsurface geologic mapping;
- b. Areas of groundwater recharge and amount of recharge;
- c. Drilled well cuttings and/or drilled well cores;
- d. Geophysical logs;
- e. Pumping test to establish hydraulic characteristics of an aquifer(s);
- f. Static and pumping water levels of wells;
- g. Groundwater availability and flow;
- h. Water quality analyses;
- i. Amount of groundwater withdrawal from the aquifer(s); and
- j. Drill test, monitor or observation wells.

3. All persons who are required to obtain a Groundwater Withdrawal Permit under this regulation shall furnish the Department such additional geologic and hydrologic information and well construction data as the Department requires which may include, but not be limited to, the following:

- a. Collection of drill cuttings at ten foot intervals and/or at lithological changes of the stratigraphy, showing depth, in feet, below ground surface, at which the cuttings were collected;

- b. Geophysical logs, where the Department finds additional information on the geology, hydrology or well construction is required;
- c. Data on all water bearing zones encountered;
- d. Drill stem or packer tests;
- e. Pumping test data;
- f. Water quality analyses; and
- g. Completed SCDES Water Well Record or other approved reporting form.

4. Any person drilling a test or exploration well for the purpose of obtaining geologic and/or hydrologic information on water or mineral resources in a designated capacity use area shall apply for a permit to construct in accordance with Section E from the Department to drill such well and shall submit to the Department the information identified in this Section; provided that no person shall be required to disclose any secret formula, process or methods used in any manufacturing operation or any confidential information concerning business activities carried on by him or under his supervision; provided, however, if the information is necessary for the Department to make a determination on a permit application or modification, the Department may deny such permit on the grounds that the applicant failed to provide the necessary information. In addition to the information required under Section E the following information shall be submitted on forms provided by or approved by the Department prior to the drilling of a test, exploration, or observation well:

- a. Name and address of applicant who shall be the owner and his applicable agent, professional engineer, or professional geologist, as appropriate;
- b. Intended purpose of the well(s);
- c. Name and address of owner(s) of property on which the proposed test, exploration, or observation well(s) is to be located;
- d. Proposed location(s) of all test, exploration, or observation well(s), identified by number, for which the permit is requested, marked on the best available map;
- e. Proposed depth(s) of all test, exploration, or observation well(s), the diameter(s), and proposed method of drilling and construction;
- f. Type of casing, screen, and other materials to be used in construction of the well(s);
- g. Type of borehole logs, including geophysical logs, to be run on the well(s); and
- h. Proposed method of abandonment.

5. Upon completion of the test, exploration, or observation well(s) the following information shall be submitted to the Department:

- a. A completed SCDES Water Well Record or other approved form;
- b. As-built construction diagram of the completed well, showing hole sizes and depths, casing sizes, and screen (if applicable), grout location, and construction materials;
- c. Elevation data;
- d. Aquifer test or pumping test data;
- e. Driller's log, geologist's or engineer's log;
- f. Geophysical logs; and
- g. Method of abandonment (if applicable).

6. All test, exploratory, and observation well(s) drilled and not developed for groundwater withdrawal shall be filled, plugged, and sealed in accordance with Section N.

7. Wells without pumps which are declared not to be abandoned shall be fitted with a secure cap when they are not being used as observation wells or for other purposes.

N. Abandoned Wells

1. Where the Department finds any existing well(s) of groundwater withdrawers or any test, exploratory, or observation well(s) have been abandoned and are no longer put to beneficial use and which are deemed by the Department to have an unreasonable adverse or potential unreasonable

adverse effect on other water users or uses, or which result, or may result, in physical or chemical impairment of the aquifer(s), shall require the well owner to fill, plug, and seal the well in a manner acceptable to and approved by the Department.

2. Where the Department finds an abandoned well to be a contributor, or may in the future become a contributor to saltwater intrusion or contamination or to be having an unreasonable adverse impact on groundwater users or freshwater aquifers, shall require the well owner to fill, plug, and seal the well in a manner acceptable to and approved by the Department.

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

O. Wells Not Requiring Pumps

Wells that are flowing by releasing groundwater under such pressure that pumping is not necessary to bring it above the ground surface at a rate of greater than five thousand gallons a day at any time are an unreasonable use of groundwater constituting waste and are prohibited, except that the water from these wells may be utilized to the extent actually necessary for a specific use. These wells must be fitted with a mechanism to restrict the flow of water if the flow is in excess of that necessary for the specific use. The Department may promulgate additional regulations to govern use of these wells in this State.

P. Severability

In the event that any portion of these regulations is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of these regulations, and they shall remain in effect, as if such invalid portions were not originally a part of these regulations.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006. Amended by SCSR 49-5 Doc. No. 5333, eff May 23, 2025.

61-114. Transferred.

HISTORY: Former Regulation, titled South Carolina Birth Defects Program, had the following history: Added by State Register, Volume 32, Issue No. 5, eff May 23, 2005. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-114.

61-115. Environmental Electronic Reporting Requirements.

(Statutory Authority: Atomic Energy and Radiation Control Act, S.C. Code Ann. §§ 13-7-10 et seq.; Uniform Electronic Transactions Act, S.C. Code Ann. §§ 26-6-10 et seq.; DHEC Enabling Act, S.C. Code Ann. §§ 44-1-10 et seq.; State Underground Petroleum Environmental Response Bank Act, S.C. Code Ann. §§ 44-2-10 et seq.; Safe Drinking Water Act, S.C. Code Ann. §§ 44-55-10 et seq.; State Recreational Waters Act, S.C. Code Ann. §§ 44-55-50 et seq.; Hazardous Waste Management Act, S.C. Code Ann. §§ 44-56-10 et seq.; Infectious Waste Management Act, S.C. Code Ann. §§ 44-93-10 et seq.; Solid Waste Policy and Management Act, S.C. Code Ann. §§ 44-96-10 et seq.; Pollution Control Act, S.C. Code Ann. §§ 48-1-10 et seq.; Environmental Protection Fund Act, S.C. Code Ann. §§ 48-2-10 et seq.; Pollution Control Facilities, S.C. Code Ann. §§ 48-3-10 et seq.; Water Quality Revolving Fund Authority Act, S.C. Code Ann. §§ 48-5-10 et seq.; Stormwater Management and Sediment Reduction Act, S.C. Code Ann. §§ 48-14-10 et seq.; Erosion and Sediment Reduction Act, S.C. Code Ann. §§ 48-18-10 et seq.; S.C. Mining Act, S.C. Code Ann. §§ 48-20-10 et seq.; Coastal Zone Management Act, S.C. Code Ann. §§ 48-39-10 et seq.; Oil and Gas Exploration, Drilling, Transportation and Production Act, S.C. Code Ann. §§ 48-43-10 et seq.)

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SECTION I. PURPOSE

The purpose of this regulation is to provide the framework by which the South Carolina Department of Health and Environmental Control (Department) will accept, manage, and enforce electronic record submissions from the regulated community. The Department has been authorized to implement these requirements for environmental programs that the United States Environmental Protection Agency (EPA) has delegated, authorized, or approved the Department to administer as referenced in EPA's Cross-Media Electronic Reporting Rule (CROMERR) as published in the October 13, 2005, issue of the Federal Register (70 FR 59848–59889). Additionally, under the Uniform Electronic Transactions Act (UETA) of 2004, S.C. Code Ann. Sections 26–6–10 et seq. the Department is also authorized to include UETA requirements for federally-authorized and state-only programs.

SECTION II. DEFINITIONS

The following words and terms, when used in this section, have the following meanings:

(a) Authorized program—A federal program that the EPA has delegated, authorized, or approved the State of South Carolina to administer, or a program that the EPA has delegated, authorized, or approved the State of South Carolina to administer in lieu of a federal program, under provisions of Title 40 of the Code of Federal Regulations (CFR) and such delegation, authorization, or approval has not been withdrawn or expired.

(b) Copy of record—A true and correct copy of an electronic document received by an electronic document receiving system, which can be viewed in a human-readable format that clearly and accurately associates all of the information provided in the electronic document with descriptions or labeling of the information. A copy of record includes:

(1) all electronic signatures contained in or associated with that document;

(2) the date and time of receipt; and

(3) any other information used to record the meaning of the document or the circumstances of its receipt.

(c) Electronic document—Any information that is submitted in digital form to satisfy requirements of authorized federal or state programs. Information may include data, text, sounds, codes, computer programs, software, or databases.

(d) Electronic document receiving system—A set of apparatus, procedures, software, or records used to receive electronic documents.

(e) Electronic signature—Any information in digital form that is included in, or associated with, an electronic document for the purpose of expressing the same meaning and intention as would a handwritten signature if affixed to an equivalent paper document with the same reference to the same content.

(f) Electronic signature agreement—An agreement drafted by the Department and signed by an individual with respect to an electronic signature device that the individual will use to create his or her electronic signature. The agreement will require such individual to protect the electronic signature device from compromise; to promptly report to the agency or agencies relying on the electronic signatures created any evidence discovered that the device has been compromised; and to be held as legally bound, obligated, or responsible by the electronic signature created as by a handwritten signature.

(g) Electronic signature device—A code or other mechanism that is used to create electronic signatures.

(h) Federal program—Any program administered by the EPA under any provision of 40 Code of Federal Regulations and delegated to the State of South Carolina by the EPA.

(i) Handwritten signature—The scripted name or legal mark of an individual, made by that individual with a marking or writing instrument such as a pen or stylus and executed or adopted with the present intention to authenticate writing in a permanent form.

(j) Person—An individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or other legal or commercial entity.

(k) Signatory—An individual authorized to and who signs a document using a format acceptable to the Department.

(l) State program—Any program that is established by state legislation and implemented by the Department under state law, including but not limited to: The Atomic Energy and Radiation Control Act, S.C. Code Ann. Sections 13-7-10 et seq.; Uniform Electronic Transactions Act, S.C. Code Ann. Sections 26-6-10 et seq.; DHEC Enabling Act, S.C. Code Ann. Sections 44-1-10 et seq.; State Underground Petroleum Environmental Response Bank Act, S.C. Code Ann. Sections 44-2-10 et seq.; Safe Drinking Water Act, S.C. Code Ann. Sections 44-55-10 et seq.; State Recreational Waters Act, S.C. Code Ann. Sections 44-55-50 et seq.; Hazardous Waste Management Act, S.C. Code Ann. Sections 44-56-10 et seq.; Infectious Waste Management Act, S.C. Code Ann. Sections 44-93-10 et seq.; Solid Waste Policy and Management Act, S.C. Code Ann. Sections 44-96-10 et seq.; Pollution Control Act, S.C. Code Ann. Sections 48-1-10 et seq.; Environmental Protection Fund Act, S.C. Code Ann. Sections 48-2-10 et seq.; Pollution Control Facilities, S.C. Code Ann. Sections 48-3-10 et seq.; Water Quality Revolving Fund Authority Act, S.C. Code Ann. Sections 48-5-10 et seq.; Stormwater Management and Sediment Reduction Act, S.C. Code Ann. Sections 48-14-10 et seq.; Erosion and Sediment Reduction Act, S.C. Code Ann. Sections 48-18-10 et seq.; S.C. Mining Act, S.C. Code Ann. Sections 48-20-10 et seq.; Coastal Zone Management Act, S.C. Code Ann. Sections 48-39-10 et seq.; Oil and Gas Exploration, Drilling, Transportation and Production Act, S.C. Code Ann. Sections 48-43-10 et seq.

SECTION III. APPLICABILITY

(a) This section applies to:

(1) persons and signatories who submit official, final electronic documents to the Department to satisfy requirements of:

(A) authorized programs for which the Department has announced it is accepting specified electronic documents; or

(B) state programs for which the Department has announced it is accepting specified electronic documents;

(2) the Department's electronic document receiving system and other software applications implemented, revised, or modified as announced by the Department; and

(3) authorized programs and state programs for which the Department has announced it is accepting specified electronic documents.

(b) This section does not apply to:

(1) documents submitted via facsimile; or

(2) electronic documents submitted via magnetic or optical media such as diskette, compact disc, digital video disc, or tape; or

(3) state programs specifically listed in Section 26-6-30 of the South Carolina Code of Laws Annotated, Chapter 6, Uniform Electronic Transactions Act.

SECTION IV. USE OF ELECTRONIC DOCUMENT RECEIVING SYSTEM

(a) When the Department has announced that it is accepting specified electronic documents, persons who submit electronic documents to the Department to satisfy requirements of a federal or state program must use the electronic document receiving system and associated procedures designated by the Department.

(b) Persons desiring to use an electronic signature device must execute an electronic signature agreement with handwritten wet ink signature or by using an electronic identity verification system utilized by the Department.

(c) An electronic signature device is compromised if the code or mechanism is available for use by any other individual.

(d) An electronic document must bear the valid electronic signature of a signatory if that signatory is required under the federal or state program to sign the paper document for which the electronic document substitutes.

(e) An electronic signature on an electronic document is valid if it has been created with an electronic signature device that the identified signatory is uniquely entitled to use for signing that document; the device has not been compromised; and the signatory is an individual who is authorized to sign the document by virtue of his or her legal status and/or his or her relationship to the entity on whose behalf the signature is executed.

(f) The presence of an electronic signature on an electronic document submitted to the Department establishes that the signatory intended to sign the electronic document and submit it to the Department to fulfill the purpose of the electronic document.

SECTION V. RESPONSIBILITIES OF AN AUTHORIZED ELECTRONIC SIGNATORY

(a) When the electronic signature device is used to create an individual's electronic signature, the signatory must ensure that the code or mechanism is unique to that individual at the time the signature is created, and the signatory must be uniquely entitled to use it. Approved signatories shall:

- (1) protect the electronic signature device from compromise;
- (2) report to the Department any evidence that the device has been compromised, within one business day of the discovery; and,
- (3) prohibit any other individual from using the electronic signature device unique to his or her signature.

SECTION VI. ENFORCEMENT

(a) An electronic signature on an electronic document submitted to the Department is the legal equivalent of a handwritten signature on a paper document submitted to the Department.

(b) Persons and signatories are subject to penalties and other remedies under Department rules or applicable statutes for failure to comply with a reporting requirement of the Department if the person or signatory reports electronically and fails to comply with the applicable provisions of this chapter, applicable statutes, Department regulations, and the electronic participation agreement.

(c) Nothing in this chapter limits the use of an electronic document, copy of record, or information derived from electronic documents as evidence in enforcement proceedings.

(d) The Department may, without advance warning, terminate use of electronic document receiving systems for individuals if, in the Department's sole determination, the use of the electronic document receiving system is performed in a manner contrary to applicable rules and regulations.

SECTION VII. SEVERABILITY

In the event that any portion of this regulation is construed by a court of competent jurisdiction to be invalid or otherwise unenforceable, such determination shall in no manner affect the remaining portions of this regulation, which, in such case, shall remain in effect as if such invalid portions were not originally a part of this regulation.

HISTORY: Added by State Register Volume 32, Issue No. 5, eff May 23, 2008.

61–116. Transferred.

HISTORY: Former Regulation, titled South Carolina Trauma Care Systems, had the following history: Added by State Register Volume 33, Issue No. 4, eff April 24, 2009. Amended by State Register Volume 40, Issue No. 5, Doc. No. 4578, eff May 27, 2016. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–116.

61–117. Access to Restricted Information.

(Statutory Authority: Section 30–4–45, S.C. Code of Laws, 1976, as amended)

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This regulation applies to information that has been designated pursuant to Code Section 30–4–45(A) or (B) for release.

B. Definitions.

1. “Department” means the Department of Health and Environmental Control.
2. “Governmental functions” means the official activities of a state, federal, or local governmental entity.
3. “Department’s Headquarters” means the Department’s office at 2600 Bull Street, Columbia, South Carolina.
4. “Requestor” means the individual or entity requesting access to Restricted Information.
5. “Restricted Information” means any information in the possession of the Department that is designated and identified by the Department in the written notification to the Attorney General pursuant to S.C. Code Section 30–4–45(B).
6. “Vulnerable zone” means a circle, the center of which is within the boundaries of a facility possessing hazardous, toxic, flammable, radioactive, or infectious materials subject to S.C. Code Section 30–4–45 and the radius of which is that distance a hazardous, toxic, flammable, radioactive, or infectious cloud, overpressure, radiation, or radiant heat would travel before dissipating to the point it no longer threatens serious short-term harm to people or the environment.

C. Release of Restricted Information.

1. Restricted Information, if not otherwise exempt from disclosure pursuant to applicable law, may be released to state, federal, and local authorities as required to carry out official governmental functions, as follows:
 - a. The requestor must appear in person at the Department’s Headquarters and must sign a register and show photographic identification issued by a state, federal or local government agency; and
 - b. The requestor must provide a written statement that: describes the intended use of the Restricted Information being requested; describes the format and medium for access to the requested information; attests that the requested information will be for official use only; and certifies that the requested information will not be released further except as required to carry out official governmental functions and in accordance with Code Section 30–4–40(c).
2. If copies are requested, the requestor must pick them up at the Department’s Headquarters in person, or by official courier. Copies will not be mailed, faxed, e-mailed, or sent by delivery service. An official courier who picks up requested copies must appear in person at the Department’s Headquarters and must sign a register and show photographic identification issued by a state, federal, or local governmental agency.
3. The Department may provide state, federal or local government officials or their authorized representatives access to Restricted Information that is maintained on an electronic data system provided such access is controlled (eg. password protected) and the information is necessary to carry out official governmental functions.

D. Disclosure in Vulnerable Zone.

1. Persons living or working within a vulnerable zone will be provided Restricted Information as follows:
 - a. The requestor must provide written verification of the location and address of his/her home or place of business along with a photographic identification.

b. The Department will determine whether the location lies within the vulnerable zone of any facility for which Department records are requested.

c. If the location for which the Restricted Information is sought does not lie within the vulnerable zone of any facility, the Department will so notify the requestor and will deny the request.

d. If the location lies within the vulnerable zone of any facility or facilities, the requestor will be provided an opportunity to review the Restricted Information that identifies the facility, shows the vulnerable zone on a local area map, and identifies the nature of the event for which the vulnerable zone was determined.

2. The requestor may review the Restricted Information at the Department's Headquarters and may take written notes, but will not be provided with copies or be allowed to make copies, scans, photographs, or otherwise duplicate the information.

E. Special Requests.

1. Restricted Information, if not otherwise exempt from disclosure pursuant to applicable law, may be released in response to a special request, as follows:

a. The requestor must demonstrate to the satisfaction of the Department that the Restricted Information, if released, will be used solely for the purpose of conducting academic or scientific research, advance knowledge about South Carolina's environment, or otherwise be of benefit to the state;

b. The requestor must appear in person at the Department's Headquarters and must sign a register and show photographic identification issued by the agency or organization for which the requestor is conducting research; and

c. The requestor must provide a written statement that: describes the intended use of the Restricted Information being requested; describes the format and medium for access to the requested information; provides that the requested information will be for research purposes only; and certifies that the requested information will not be released further.

2. If copies are requested, the requestor must pick them up at the Department's Headquarters in person, or by official courier. Copies will not be mailed, faxed, e-mailed, or sent by delivery service. An official courier who picks up requested copies must appear in person at the Department's Headquarters and must sign a register and show photographic identification issued by the agency or organization for which the requestor is conducting research.

F. Requests for Restricted and Unrestricted Information.

1. Upon receipt of a request that seeks both Restricted Information and unrestricted information, the Department will segregate restricted and unrestricted information in response to the request.

2. Those documents containing only unrestricted information will be provided in accordance with normal Department procedures. So much of the request as seeks Restricted Information will be responded to in accordance with Code Section 30-4-40(c) and this regulation.

G. Customary Charges for Copies.

The Department's customary charges authorized in S.C. Code Section 30-4-30 for searching and making copies of records are applicable to requests for release of Restricted Information covered by this regulation.

HISTORY: Added by State Register Volume 36, Issue No. 5, eff May 25, 2012.

61-118. Transferred.

HISTORY: Former Regulation, titled South Carolina Stroke Care System, had the following history: Added by SCSR 42-5 Doc. No. 4760, eff May 25, 2018. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-118.

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

(Statutory Authority: 1976 Code §§ 49-4-10 et seq., 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024)

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A. PURPOSE AND SCOPE.

1. Implementation Provision.

This regulation implements The South Carolina Surface Water Withdrawal, Permitting, Use, and Reporting Act, Section 49-4-10 et seq., S.C. Code of Laws, 1976, as amended. It establishes a system and rules for permitting and registering the withdrawal and use of surface water from within the state of South Carolina and those surface waters shared with adjacent states. The permitting, registration, use, and reporting requirements for the regulated surface water withdrawals are outlined in this regulation. This regulation applies to any person withdrawing surface water in excess of three million (3,000,000) gallons during any one (1) month.

2. Right to Withdraw.

A permit issued under this regulation confers upon a permittee a right to withdraw and use surface water pursuant to the terms and conditions of the permit. The permit does not convey a property right to the permittee nor does it relieve the permittee from being required to obtain and comply with any other permits or approvals that may be required under other existing laws. Nothing in this regulation shall be construed to diminish the Department's authority to regulate facilities under any other applicable laws.

3. South Carolina Drought Act Provision.

Nothing in this regulation limits or precludes any action authorized by the South Carolina Drought Response Act, Section 49-23-10 et seq., S.C. Code of Laws, 1976, as amended, hereafter referred to as the S.C. Drought Response Act. In the event that an action authorized by the S.C. Drought Response Act conflicts with requirements of this regulation or a permitted use, the action taken pursuant to the S.C. Drought Response Act supersedes any actions taken pursuant to this regulation or the permit.

B. DEFINITIONS.

Definitions as used in this regulation are as follows:

1. 'Administratively complete' means a determination by the Department that all elements of an application, as specified in the applicable regulation and including but not limited to all required signatures and tender of the application fee, where required, have been received.

2. 'Affected area' means that portion of a county or counties within a river basin that, under the circumstances, are determined by the Department to likely be affected by a proposed surface water withdrawal.

3. 'Agricultural use' means:

- a. plowing, tilling, or preparing the soil at an agricultural facility;
- b. planting, growing, fertilizing, or harvesting crops, ornamental horticulture, floriculture, and turf grasses;
- c. application of pesticides, herbicides, or other chemicals, compounds, or substances to crops, weeds, or soil in connection with the production of crops, livestock, animals, or poultry;
- d. breeding, hatching, raising, producing, feeding, keeping, slaughtering, or processing livestock, hogs, aquatic animals, equines, chickens, turkeys, poultry, or other fowl normally raised for food, mules, cattle, sheep, goats, rabbits, or similar farm animals for commercial purposes;
- e. producing and keeping honeybees, producing honeybee products, and honeybee processing facilities;
- f. producing, processing, or packaging eggs or egg products;
- g. manufacturing feed for poultry or livestock;
- h. rotation of crops;
- i. commercial aquaculture;
- j. application of existing, changed, or new technology, practices, processes, or procedures to an agricultural use;
- k. the operation of a roadside market; and
- l. silviculture.

4. 'Agriculture facility' means any land, building, structure, pond, impoundment, appurtenance, machinery, or equipment which is used for the commercial production or processing of crops, trees, livestock, animals, poultry, honeybees, honeybee products, livestock products, poultry products, or products which are used in commercial aquaculture.

5. 'Consumptive use' means any use of water which is not a nonconsumptive use.

6. 'Department' means the Department of Environmental Services.

7. 'Diffuse surface water' means water on the surface of the earth not located in defined courses, streams, or water bodies.

8. 'Drought contingency pond' means a pond or lake designated solely as a supplemental water source in a surface water withdrawer's operational and contingency plan.

9. 'Emergency withdrawal' means the withdrawal of water, for a period not exceeding thirty days, for the purpose of firefighting, hazardous substance waste spill response, or both, or other emergency withdrawal of water as determined by the Department.

10. 'Existing surface water withdrawer' means a surface water withdrawer withdrawing surface water as of January 1, 2011, or a proposed surface water withdrawer with its intakes under construction before January 1, 2011, or with all necessary applications for its intake permits deemed administratively complete before January 1, 2011.

11. 'Farm pond' means a pond completely situated on private property that is only used for providing water for agricultural uses.

12. 'Gaging station' means a site on a stream, canal, lake or reservoir where systematic observations of stage, discharge, or other hydrologic data are obtained. Gaging stations may be part of the United States Geological Survey (USGS) monitoring network or other Department approved measuring devices established by or at the direction of or approved by the Department, after

consultation with the South Carolina Department of Natural Resources (SCDNR), utilizing appropriate, Department approved measuring devices.

13. 'Impoundment' means a dam, dike, natural structure, or any combination thereof that is designed to hold an accumulation of surface water or impede the flow of surface water.

14. 'Interbasin transfer' means the withdrawal of surface water from a river basin and the movement of that water to a river basin different from the source of the withdrawal.

15. 'Licensed or otherwise flow controlled impoundment' means an impoundment or waterbody for which approval to construct and/or operate has been given by an appropriate governmental authority or agency with said approval including regulated releases with required flows from the impoundment. Licensing agencies include, but are not limited to, the United States Army Corps of Engineers and the Federal Energy Regulatory Commission, which incorporate in such federal licensing and permitting decisions the State of South Carolina water quality certification under Section 401 of the Clean Water Act.

16. 'Mean annual daily flow' means the arithmetic mean of individual daily mean discharges (stream flow) for a period representative of the historic stream flow records, using flow measurements published by USGS or as determined by other Department approved, hydrologically valid data.

17. 'Minimal changes in water quantity' means that greater than ninety (90) percent of the water withdrawn by a surface water withdrawer, based upon the previous twenty-four (24) months of historical data, is returned to the waters of origin; provided, that either the amount of water not returned to the water source does not:

- a. exceed three million (3,000,000) gallons during any one (1) month; or
- b. significantly reduce the safe yield at the withdrawal point.

18. 'Minimum instream flow' means the flow that provides an adequate supply of water at the surface water withdrawal point to maintain the biological, chemical, and physical integrity of the stream taking into account the needs of downstream users, recreation, and navigation and that flow is set at forty (40) percent of the mean annual daily flow for the months of January, February, March, and April; thirty (30) percent of the mean annual daily flow for the months of May, June, and December; and twenty (20) percent of the mean annual daily flow for the months of July through November for surface water withdrawers as described in Section 49-4-150(A)(1). For surface water withdrawal points located on a surface water segment downstream of and influenced by a licensed or otherwise flow controlled impoundment, 'minimum instream flow' means the flow that provides an adequate supply of water at the surface water withdrawal point to maintain the biological, chemical, and physical integrity of the stream taking into account the needs of downstream users, recreation, and navigation and that flow is set in Section 49-4-150(A)(3).

19. 'Minimum water level' means the water level in an impoundment necessary to maintain the biological, chemical, and physical integrity of the surface water in the impoundment taking into account downstream uses, withdrawals from the impoundment, and recreational and navigational needs as established by an existing federal regulatory process or established through consultation between the Department and the operator of the impoundment.

20. 'Nonconsumptive use' means a use of surface water withdrawn in such a manner that it is returned to its waters of origin within the boundaries of contiguous property owned by the surface water withdrawer with no or minimal changes in water quantity.

21. 'Permit' or 'surface water withdrawal permit' means a written authorization issued to a person by the Department that allows the person to hold and exercise a water right to withdraw surface water pursuant to the terms of the permit and this regulation.

22. 'Permitted surface water withdrawer' means a person withdrawing surface water pursuant to a surface water withdrawal permit.

23. 'Permittee' means a person authorized to make withdrawals of surface water pursuant to a surface water withdrawal permit issued by the Department.

24. 'Person' means an individual, firm, partnership, trust, estate, association, public or private institution, municipality, or political subdivision, governmental agency, public water system, or a

private or public corporation or other legal entity organized under the laws of this State or any other state or county.

25. 'Proposed registered surface water withdrawer' means a proposed surface water withdrawer whose planned operations would result in his withdrawals being subject to the reporting but not the permitting requirements of this regulation.

26. 'Public water system' means a water system as defined in Section 44-55-20 of the State Safe Drinking Water Act, Section 44-55-10 et seq., S.C. Code of Laws, 1976 as amended.

27. 'Registered surface water withdrawer' means a person who makes surface water withdrawals for agricultural uses at an agricultural facility that is filing a report pursuant to Section 49-4-50.

28. 'River basin' means the area drained by a river and its tributaries or through a specified point on a river, as determined in Section 49-4-80(K)(2).

29. 'Safe yield' means the amount of water available for withdrawal from a particular surface water source in excess of the minimum instream flow or minimum water level for that surface water source. Safe yield is determined by comparing the natural and artificial replenishment of the surface water to the existing or planned consumptive and nonconsumptive uses.

30. 'Supplemental water source' means a source of water different from the source of permitted withdrawal that will be used when an adequate amount of water is unavailable for withdrawal from the permitted source, including, but not limited to, ground water wells, aquifer storage and recovery projects, water storage facilities, drought contingency ponds, and connections to other water providers.

31. 'Surface water' means all water that is wholly or partially within the State, including the Savannah River, or within its jurisdiction, which is open to the atmosphere and subject to surface runoff, including, but not limited to, lakes, streams, ponds, rivers, creeks, runs, springs, and reservoirs, but not including water and wastewater treatment impoundments, off-stream supplemental operations related impoundments, or water storage structures constructed by the surface water withdrawer to provide adequate supplies of surface water during low flow conditions.

32. 'Surface water withdrawer' means a person withdrawing surface water in excess of three million (3,000,000) gallons during any one (1) month from a single intake or multiple intakes under common ownership within a one (1) mile radius from any one (1) existing or proposed intake.

33. 'Water Supply Only Reservoir' means a reservoir from which no permitted or registered consumptive withdrawals other than for public drinking water supply are allowed.

34. 'Withdrawal' means to remove surface water from its natural course or location, or exercising physical control over surface water in its natural course or location, regardless of whether the water is returned to its waters of origin, consumed, transferred to another river basin, or discharged elsewhere.

C. EXEMPTIONS.

1. Exempt Surface Water Withdrawals.

Surface water withdrawals for the following purposes are exempt from the permitting, registering, and reporting requirements provided for in this regulation:

- a. withdrawals associated with active instream dredging or sand mining operations or other nonconsumptive instream mining operations undertaken pursuant to the South Carolina Mining Act, Section 48-20-10 et seq., S.C. Code of Laws, 1976, as amended;
- b. emergency withdrawals;
- c. withdrawals from farm ponds that are only used for providing water for agricultural purposes:
 - i. owned or leased by the person making the withdrawal; or
 - ii. situated on two or more separately owned parcels of private property if each property owner agrees to the withdrawal;
- d. a person withdrawing surface water from any pond completely situated on private property and which is supplied only by diffuse surface water, or supplied by springs completely situated on the private property, or supplied by groundwater withdrawals;

- e. naturally occurring evaporation from impoundments;
- f. a person withdrawing, using, or discharging surface water for the purpose of wildlife habitat management; and
- g. a special purpose district withdrawing surface water from any pond completely situated on property owned by a special purpose district and which is supplied only by diffuse surface water or springs completely situated on the special purpose district's property.

2. Hydropower Reporting Requirements.

Hydropower generation, including pumped storage, is exempt from the permitting requirements of this regulation but not the reporting requirements in Section 49–4–50.

3. Provision Allowing Permitting of Exempt Withdrawals.

Nothing in this regulation prohibits an exempt surface water withdrawer from applying for and receiving a surface water withdrawal permit, consistent with applicable provisions of this regulation. Nothing in this regulation prohibits an exempt surface water withdrawer from registering a withdrawal, consistent with applicable provisions of this regulation. An exempt surface water withdrawer that obtains a permit or registers its use is entitled to all of the rights conferred upon by a permit or a registration, as the case may be.

D. PERMITS FOR EXISTING SURFACE WATER WITHDRAWERS AS OF JANUARY 1, 2011.

1. Application Requirements.

An existing surface water withdrawer must submit a permit application on a form to be provided by the Department within one hundred and eighty (180) days of the effective date of this regulation. Any existing surface water withdrawer submitting an application more than one hundred and eighty (180) days after the effective date of this regulation will be considered a new surface water withdrawer. At a minimum, the application must contain the following information:

- a. the name, address, phone number(s), principal place of business of the person applying for the permit and, if applicable, the name and address of the agent for the applicant;
- b. the location of each of the applicant's intakes, including:
 - i. name of source waterbody;
 - ii. latitude and longitude of intake;
 - iii. a map showing the withdrawal point(s) on a 1:24,000 scale USGS quadrangle or equivalent;
 - iv. the county in which the intake is located;
 - v. type of source waterbody, such as a stream, lake or estuary;
- c. the place and nature of the proposed use of the surface water withdrawn;
- d. the quantity of surface water requested for withdrawal, in million gallons per month, at each relevant withdrawal point, with supporting documentation, based on whichever of the following options is greatest as identified by the person applying for the permit:
 - i. documented historical water use;
 - ii. current permitted treatment capacity;
 - iii. design capacity of the intake structure as of January 1, 2011;
 - iv. design capacity of a pending intake structure permit application deemed administratively complete as of January 1, 2011;
 - v. an amount necessary to recover, through the sale of water, indebtedness from an outstanding bond or revenue certificate issued prior to January 1, 2011;
 - vi. for a publicly owned water utility, the safe yield of the utility's existing or permitted water supply only reservoir;
- e. the method that will be used to measure the quantity of water that is withdrawn;
- f. the location(s) where water withdrawn pursuant to the requested permit is returned to any surface water, including latitude and longitude and notation on a 1:24,000 USGS topographic map or equivalent, and the anticipated percent of water returned at each location;

g. any information necessary for the Department to assess a request for a permit length greater than the thirty (30) year period specified in item H.1.a. of this regulation (not to exceed a total of forty (40) years) or to assess the need for an additional period (not to exceed a total of fifty (50) years) for a municipality or other governmental body to retire a bond it issued to finance the construction of waterworks as specified in item H.1.b.; and

h. the estimated ratio between water withdrawn and consumptive use of water withdrawn.

2. Requests for Additional Flow.

If an applicant requests additional withdrawal quantity over and above the quantity documented in item D.1.d above, pursuant to Section 49-4-70 B(3), the Department will evaluate the additional quantity using criteria specified in section E. below with the exception of withdrawers to be permitted pursuant to Sections 49-4-40 and 49-4-45 which will be subject to only the requirements contained in those sections. For withdrawers with multiple withdrawal points, the application must specify the additional quantity requested at each intake. The additional quantity will be specified on the permit for the specific intake. If additional quantity is approved, the withdrawer will continue to be considered an existing surface water withdrawer and permitted as such under Section 49-4-70 (B)(1) with subsequent renewals not subject to the permitting criteria in Section 49-4-80 and not subject to Section 49-4-150.

3. Operations and Contingency Plan Requirements.

Each permittee must prepare and maintain on site, available for inspection, an operational and contingency plan to promote an adequate water supply from the surface water during times when the actual flow of the surface water is less than the minimum instream flow for that particular surface water segment. The existence of a plan is deemed to be an enforceable part of the permit under which the permittee is withdrawing surface water and shall be deemed to control a permitted surface water withdrawal in situations where the actual flow of the surface water is less than the minimum instream flow for that particular stream segment. For an existing surface water withdrawer, the operational and contingency plan will only address appropriate industry standards for water conservation. If initial permits issued under this section are expanded, contingency plans for existing surface water withdrawers must meet the requirements of section E.4 for the volume permitted over and above that of the initial permit.

4. Information to be Included in Permit.

Upon receipt of a complete application and specified fee, the Department must issue to an existing water withdrawer a permit based upon the information contained in the application and specifying the following:

- a. the location of the permittee's intake facility or facilities used or constructed to make withdrawals pursuant to the permit;
- b. the amount of water that may be withdrawn at each intake, based on the appropriate criteria of item D.1.d above, if appropriate, as documented by the applicant and approved by the Department;
- c. the expiration date of the permit, including the period in years of the permit (not to exceed fifty (50) years) as specified in Section 49-4-100 (B);
- d. the amount of water to be discharged back into the surface water body and location of the discharge; and
- e. the requirement for the applicant to submit an operational and contingency plan to address applicable industry standards for water conservation.

E. PERMITS FOR NEW OR EXPANDING SURFACE WATER WITHDRAWERS AFTER JANUARY 1, 2011.

1. Requirement to Obtain Permit to Withdraw.

After the effective date of this regulation, a new surface water withdrawer must apply for and obtain a surface water withdrawal permit pursuant to this regulation before making a surface water withdrawal. A permitted surface water withdrawer that would like to increase its permitted withdrawal amount must apply to the Department for the additional amount and receive a permit modification prior to increasing the withdrawal; however, for a withdrawer seeking to increase its

permitted withdrawal amount, only the proposed increase, over and above a prior permitted amount, will be evaluated under the appropriate criteria of this section, section E.

2. Application Requirements.

Applications for new permits and modification of existing permits must be made on forms to be provided by the Department. The application must contain the following information:

- a. the name, address, phone number(s), principal place of business of the person applying for the permit or permit modification and, if applicable, the name and address of the agent for the applicant;
- b. the location of the proposed intake(s) or the existing intake(s) to be expanded, including:
 - i. name of source waterbody;
 - ii. latitude and longitude of intake;
 - iii. a map showing the withdrawal point(s) on a 1:24,000 scale USGS quadrangle or equivalent;
 - iv. the county in which the intake is located;
 - v. type of source waterbody, such as stream, lake, or estuary;
- c. the place and nature of the proposed use of the surface water withdrawn;
- d. a declaration as to whether any portion of the water to be withdrawn pursuant to the requested permit will cross a basin boundary as defined in item F.2.d of this regulation. If water is to be transferred across basin lines, the application must include:
 - i. the basin, as defined in item F.2.d, to receive the transferred flow, the specific location of the transfer, the entity to which the water is being transferred and the means by which it is being transferred;
 - ii. the maximum quantity of water, in million gallons per month, the applicant is requesting authority to transfer during the life of the permit;
- e. for a proposed new surface water withdrawal, the quantity of surface water requested for withdrawal at each relevant withdrawal point in million gallons per month, with a justification of the quantity requested;
- f. for a proposed expansion of an existing surface water withdrawal, the existing permitted capacity at the specified withdrawal point and the proposed additional amount to be withdrawn in million gallons per month, along with a justification of the quantity requested;
- g. the estimated ratio between water withdrawn and consumptive use of water withdrawn;
- h. for a proposed new or expanding surface water withdrawal whose contingency plan will require use of a supplemental water source, the capacity of the pump(s) that will be used to refill any required supplemental water source or other drought contingency water supply vessels;
- i. the method that will be used to measure the quantity of water that is withdrawn;
- j. anticipated future water needs over and above the quantity being requested in the current permit application;
- k. the location(s) where water withdrawn pursuant to the requested permit will be returned to any surface water, including latitude and longitude and notation on a 1:24,000 USGS topographic map or equivalent, and the anticipated percent of withdrawn water to be returned at each location;
- l. a description of how applicable industry standards on the efficient use of water, if any, have been considered in determining the quantity of water being requested;
- m. where applicable, a draft of the proposed withdrawer's contingency plan addressing operations during time when the actual flow of the surface water is less than or equal to the minimum instream flow plus any flow necessary to protect downstream permitted and registered withdrawals; and
- n. where applicable, any information necessary for the Department to assess a request for a permit length greater than the twenty (20) year period specified in item H.2.a. (not to exceed a total of forty (40) years) or to assess the need for an additional period (not to exceed a total of fifty

(50) years) for a municipality or other governmental body to retire a bond it issued to finance the construction of waterworks as specified in item H.2.b.

3. Evaluation Criteria.

a. The Department will evaluate each proposed activity requiring a new or modified surface water withdrawal permit to evaluate the reasonableness of the proposed activity, excepting those projects permitted under Section 49-4-40 or Section 49-4-45(A)(1) which will be subject to only the requirements contained in those sections. This evaluation shall address the impacts of the withdrawal on the surface water body and will make determinations in compliance with the requirements of Section 49-4-10 et seq. and this regulation. If a proposed new or expanding project is determined to be reasonable based on these criteria, a permit must be issued. Surface water withdrawals made by permitted or registered withdrawers shall be presumed to be reasonable. In assessing the reasonableness of the proposed withdrawal, the Department will address and consider the following factors.

i. The minimum instream flow or minimum water level for the surface water source at the location of the proposed surface water withdrawal will be evaluated as follows.

(A) The minimum instream flow for stream segments that are not downstream of a licensed or otherwise flow controlled impoundment or that are no longer materially influenced by a licensed or otherwise flow controlled impoundment is forty (40) percent of the mean annual daily flow for the months of January, February, March, and April; thirty (30) percent of the mean annual daily flow for the months of May, June, and December; and twenty (20) percent of the mean annual daily flow for the months of July through November. The minimum instream flow for stream segments that are not downstream of and influenced by a licensed or otherwise flow controlled impoundment or that are no longer materially influenced by a licensed or otherwise flow controlled impoundment will be calculated as follows:

(1) an appropriate USGS or Department approved gaging station (or stations as appropriate), known as an index station, for determining the flow at the withdrawal point will be determined, considering factors such as but not limited to drainage area, flow characteristics, physiographic province, period of record, and land use;

(2) the mean annual daily flow coefficient (CFS/square mile) at the index station will be determined with adjustments as needed to address the impact of any withdrawals or discharges upstream of the gaging station;

(3) the mean annual daily flow at the proposed withdrawal site will be determined based on the appropriate gage information and the drainage area at the proposed withdrawal site; and

(4) the three seasonal minimum instream flows will be developed based on twenty (20) percent, thirty (30) percent and forty (40) percent of the calculated mean annual daily flow.

(B) The minimum instream flow for surface water withdrawal points located on a surface water segment downstream of and materially influenced by a licensed or otherwise flow controlled impoundment shall be the flow specified in the license, by the appropriate governmental agency with regulatory authority for the flow controlled impoundment, as protective of downstream uses. A withdrawal point is considered to be materially influenced by a licensed or otherwise flow controlled impoundment to the point in the stream where the Department demonstrates through flow modeling or analysis of flow data that the stream segment is no longer materially influenced by the licensed or otherwise flow controlled impoundments. The minimum instream flow below this point will be as determined in item E.3.a.i(A) above.

(C) Minimum water level for impoundments will be determined as follows.

(1) For licensed or otherwise flow controlled impoundments, the minimum water level will be the level established by an existing federal regulatory process. When a surface water withdrawal point is located on a licensed or otherwise flow controlled impoundment, a withdrawal permit may not authorize the withdrawal of surface water in an amount that would cause a reservoir:

(a) water level to drop below its minimum water level; or

(b) to be unable to release the lowest minimum flow specified in the license for that impoundment as issued by the appropriate government agency.

(2) For impoundments for which a minimum water level has not been established by an existing federal regulatory process, an appropriate minimum water level will be established through consultation between the Department and the operator of the impoundment.

(3) The requirements of E.3.a.i(A) and (B) do not apply to withdrawals from a licensed or otherwise flow controlled impoundment.

ii. The safe yield at the point of withdrawal will be evaluated as follows.

(A) For withdrawals in a stream segment not influenced by a licensed or otherwise flow controlled impoundment, the safe yield is calculated as the difference between the mean annual daily flow and twenty (20) percent of mean annual daily flow at the withdrawal point, taking into consideration natural and artificial replenishment of the surface water and affected downstream withdrawals.

(B) For withdrawals located on a stream segment materially influenced by a licensed or otherwise flow controlled impoundment, the safe yield is calculated as the difference between mean annual daily flow and the lowest designated flow in the license specified for normal conditions (non-drought), taking into consideration natural and artificial replenishment of the surface water and affected downstream withdrawals and natural attenuation of the stream flow between the licensed or otherwise flow controlled impoundment and the surface water withdrawal point.

(C) For withdrawals from a licensed or otherwise flow controlled impoundment, safe yield is calculated as the maximum amount that would not cause a reservoir water level to drop below its minimum water level or to be able to release the lowest minimum flow specified in the license for that impoundment as issued by the appropriate governmental agency.

(D) For withdrawals from an impoundment that is not considered a licensed or otherwise flow controlled impoundment under this regulation, the safe yield is calculated as the maximum amount that would not cause the impoundment water level to drop below its minimum water level as established by the Department with input from the applicant and the owner(s) and operator(s) of the impoundment consistent with E.3.i(C)(2) above.

(E) Safe yield shall be considered as one factor in issuing a withdrawal permit as outlined in Section 49-4-80(B). Should withdrawals in excess of the safe yield be permitted, additional contingency planning shall be required of the permittee.

iii. The anticipated effect of the applicant's proposed use on existing users of the same surface water source, including, but not limited to, present agricultural, municipal, industrial, electrical generation, and instream users, will be considered by accounting for existing withdrawals from, and natural and artificial replenishment of, the waterbody in determining the safe yield of the stream and when determining operations and contingency plan requirements of section E.4 of this regulation.

iv. The reasonable foreseeable future need for the surface water including, but not limited to, agricultural, municipal, industrial, electrical generation and instream uses will be considered. Prior to issuing a permit for a new or expanding withdrawal, the Department will consider any relevant comments made during the public comment period and any other complete applications for a withdrawal from the same waterbody when considering the reasonable future needs for the surface water.

v. Whether it is reasonably foreseeable that the applicant's proposed withdrawal(s) would result in a significant, detrimental impact on navigation, fish and wildlife habitat, or recreation will be considered. As part of the review of any proposed new or expanding surface water withdrawal, the Department will solicit input from and consider any comments provided by appropriate state and federal agencies responsible for recreation, navigation, and fish and wildlife habitat, as well as the general public.

vi. The applicant's reasonably foreseeable future water needs from the surface water will be considered. As part of the application for a new or expanding surface water permit, the applicant will be asked to provide information considering future water needs over and above the amount being requested in the permit application.

vii. The impact of applicable industry standards on the efficient use of water, if adhered to by the applicant, will be considered. As part of the application for a new or expanding surface water permit for an industrial withdrawal, the applicant will be required to provide information on how applicable industry standards for the efficient use of water have been used in determining the amount of water being requested and the Department can take this information into account when determining the withdrawal for the proposed project.

viii. The Department shall notify the public of the Department's determination when the safe yield in a river or stream has been fully allocated.

b. An applicant for a new or expanding surface water withdrawal from an existing, licensed or otherwise flow controlled impoundment shall obtain a surface water withdrawal permit pursuant to the criteria below. Nothing in this regulation precludes the requirement for the owner and operator of a proposed new or expanding water withdrawal facility that will be constructed within the boundaries of a reservoir operated by a different entity from obtaining the reservoir operator's approval before construction of the proposed new or expanded surface water withdrawal facility.

i. Where the applicant is the owner of a licensed or otherwise flow controlled impoundment that utilizes water from the impoundment and the withdrawal is subject to review and approval of applicable state and federal laws and regulations, including its impoundment licensing authority, the Department shall issue a permit for the withdrawal upon submittal of a proper permit application to provide information needed for the Department to issue a permit consistent with the Act.

ii. Where the applicant is not the owner of the licensed impoundment that will be the source of the withdrawal, a permit will be issued upon proper application in accordance with the criteria contained in E.3.a of this regulation. Where the owner or federally authorized agency managing the licensed impoundment or where the licensing agency requires review and approval subject to applicable state and federal laws and regulations, the Department will consider all information provided by the applicant as part of the process necessary to gain approval of the withdrawal. The Department reserves the right to require any additional information, over and above that required by the managing entity, deemed necessary to adequately review the proposed withdrawal, consistent with E.3.a above. Upon completion of the review process and determination of an acceptable withdrawal quantity that is within the safe yield and in compliance with the minimum water level of the impoundment, and submittal of a complete application, the Department will issue an appropriate permit for the withdrawal.

iii. Where the applicant is not the owner of the impoundment that is to be the source of the withdrawal and said impoundment is not licensed or the license does not include a flow prescription or minimum lake level, the Department will work with the impoundment owner and the applicant to determine the minimum water level and safe yield of the impoundment. The Department may require the applicant to supply information necessary to determine the safe yield of the impoundment. Upon completion of the review process and submittal of a complete application, the Department may issue an appropriate permit for the withdrawal, consistent with the provisions of this regulation.

iv. When a surface water withdrawal point is located on an impoundment that serves as a water supply for a federally licensed facility that is also an existing surface water withdrawer, a withdrawal permit may not authorize any new surface water withdrawer to withdraw surface water in an amount that would negatively impact the continued operation of the federally licensed facility. These requirements do not apply to an expansion or addition of units at a federally licensed facility.

4. Operations and Contingency Plan Requirements.

Anytime the flow at the point of the permitted withdrawal is less than or equal to the minimum instream flow and taking into consideration natural and artificial replenishment of the surface water and existing or planned consumptive and nonconsumptive uses affected by the withdrawal downstream, the permitted surface water withdrawer must implement applicable portions of its water contingency plan and, excepting public water systems addressed in Section 49-4-150(A)(6), will discontinue facility consumptive water uses from the surface water source such that continued withdrawals will result in no net decrease in flow below the facility's discharge.

a. Each permittee must prepare and maintain on site, available for inspection, an operational and contingency plan to promote an adequate water supply from the surface water during times when the actual flow of the surface water is less than the minimum instream flow, plus any flow necessary to protect downstream permitted and registered withdrawals, taking into account natural and artificial replenishment of the surface water, for that particular surface water segment. The existence of a plan is deemed to be an enforceable part of the permit under which the permittee is withdrawing surface water and shall be deemed to control a permitted surface water withdrawal in situations where the actual flow of the surface water is less than the minimum instream flow for that particular stream segment.

b. For applicable new or expanding surface water withdrawers, the plan must identify actions to be taken to address low flow conditions, including: water conservation, use of supplemental water supplies, use of off-stream water storage, operational changes, seasonal water flow fluctuation withdrawals, or hydroelectric operations in controlled surface waters. For expansion of permits initially issued under section D above, the requirements of this section only apply to the permitted amount over and above the permitted quantity of the initial permit.

c. Public water systems must develop operational and contingency plans consistent with E.4.b. above and implement their plan, applicable to their service territory, commensurate with the drought level declared by the State Drought Response Committee and in accordance with any drought response plan required by the owner of a licensed impoundment that they use as a water source.

d. Non-public water withdrawers must develop operational and contingency plans consistent with E.4.b. above and implement them consistent with the requirements of this section and act in accordance with any drought response plan required by the owner of a licensed impoundment that they use as a water source.

e. For surface water withdrawers with an operational and contingency plan requiring one or more supplemental sources of water to be used for continued facility operations during minimum instream flow conditions, the supplemental water supply needed will be addressed as follows.

i. For a surface water withdrawer proposing to use surface water as all or a portion of the supplemental water supply:

(A) Where only surface water will be used as a supplemental supply, the volume of water required to be stored is set forth in Section 49-4-150(A)(2)(c), and the following used as an aid to such determinations.

(1) Using an appropriate USGS or Department approved gaging station, historical flow at the withdrawal point will be determined. Factors to be considered in determining an appropriate index station include but are not limited to drainage area, flow characteristics, physiographic province, period of record, and land use.

(2) Using the flow record at the appropriate index station, a daily flow record for the longest period of record feasible will be determined at the proposed withdrawal point. All years experiencing periods of flow below the minimum instream flow for the months July through November will be determined and evaluated, up to and including the drought of record. For the purposes of this section, the drought of record will be considered the July through November period, within the period of record, having the largest number of days with flows equal to or less than the minimum instream flow.

(3) Using the flow records of July through November periods experiencing flows equal to or less than the minimum instream flow, including but not limited to the drought of record, the Department will determine a supplemental water volume for inclusion in any permit to be issued for the withdrawal. The supplemental water volume is not required to be any larger than the quantity that allows for facility operations during twenty percent mean annual daily flow conditions, based upon a review of historical low flow data and projected facility consumptive water uses during low flow periods. Facility consumptive water uses means the amount of water that is lost and not returned to the source waterbody during normal operations.

(4) If an appropriate index station with an appropriate period of record is not available, the Department, in consultation with the applicant, will determine an appropriate storage

volume using the best information available. The USGS and/or SCDNR may be consulted as needed.

(B) For a surface water withdrawer proposing to utilize surface water in conjunction with other supplemental sources to satisfy contingency plan requirements, the volume of supplemental supply needed will be determined as in item E.4.e.i(A) above with due consideration given to the volume of water to be supplied by sources other than surface water when determining drought contingency pond size.

(C) A permitted surface water withdrawer utilizing a drought contingency pond as all or some of its supplemental water source may withdraw the entire volume of water from the pond during low flow periods requiring supplemental water source usage. Water withdrawn from drought contingency ponds is not subject to environmental and permitting restrictions unless or until it is discharged to state waters. The Department will designate drought contingency ponds, a type of supplemental water source, as part of an approved operational and contingency plan.

(D) For withdrawals where the withdrawal point is not located on a licensed or otherwise flow controlled impoundment, a permitted surface water withdrawer may withdraw water from the permitted surface withdrawal point in order to refill its supplemental water source, or other drought contingency water supply vessels, anytime the river flow exceeds the minimum instream flow, provided the total amount withdrawn for daily operations and for refilling the supplemental water source or other drought contingency water supply vessel does not cause the flow downstream of the withdrawal point to go below the minimum instream flow plus any flow necessary to protect downstream permitted and registered withdrawals.

(E) For withdrawals where the withdrawal point is located on a licensed or otherwise flow controlled impoundment, the permitted withdrawer may withdraw water to refill his supplemental water source or other drought contingency water supply vessel anytime the total amount withdrawn for daily operations and for refilling the supplemental water source does not cause the reservoir water level to drop below its minimum water level or to be unable to release the lowest minimum flow specified in the license for the impoundment as issued by the appropriate government agency.

ii. For a surface water withdrawer proposing to utilize groundwater obtained on its site as a supplemental source, the applicant must document the availability of groundwater of sufficient quantity to provide for the withdrawer's daily needs for a period of time at least equal to the period of time the surface water will be unavailable as determined in item E.4.e.i(A) above. Any permits or approvals required to extract groundwater for use as a supplemental source must be obtained prior to issuance of a surface water withdrawal permit.

iii. For a surface water withdrawer proposing to utilize as their supplemental source water purchased from: another surface water withdrawer; a permitted discharger; a supplier using groundwater as its source; or other source approved by the Department, the withdrawer must demonstrate via contract or other legally binding commitment the availability of a sufficient quantity of water to provide for the withdrawer's daily needs for a period of time at least equal to the period of time the surface water will be unavailable as determined in item E.4.e.i(A) above.

iv. New surface water withdrawers are not required to engineer the supplemental water source identified in their contingency plan any larger than the quantity that allows for facility operations during twenty percent mean annual daily flow conditions, based upon a review of historical low flow data and projected facility consumptive water uses during low flow periods.

v. A new surface water withdrawer may not return to the withdrawal source when its supplemental water source is exhausted unless the supplemental water source has been engineered to meet the specifications of this section.

vi. If after all reasonable contingency plans have been implemented, and the surface water withdrawer is within fifteen (15) days of exhausting the usable water supply from its supplemental water source, a new surface water withdrawer may give notice to the Department that he is exhausting his supplemental water sources and that he intends to return to the withdrawal source in amounts up to his permitted amount. Notification must be made in writing as

expeditiously as possible, to include electronic communication, to the address provided in the permit. Upon receiving notice, the Department must determine whether all or any portion of the withdrawal for facility consumptive water uses will result in a significant negative impact to an existing user or the environment if the permitted withdrawal is resumed. If the Department does not make its determination within ten (10) days of receipt of notice, the permittee may make withdrawals up to the permitted amount and do so until notified by the Department whether all or any portion of the withdrawal for facility consumptive water uses will result in a significant negative impact to an existing user or the environment during this low flow period. Upon notification by the Department, the permittee will cease withdrawals for facility consumptive water uses that will result in any significant negative impact.

f. The Department must consult with the SCDNR to determine which, if any, existing stream gaging station should be utilized to quantify the stream flow at the point of the proposed withdrawal. The Department may also seek the input of the applicant in determining a suitable means to measure or extrapolate the stream flow at the point of the proposed withdrawal. If no existing stream gage is suitable for measuring or extrapolating the flow at which the applicant's water withdrawal must be reduced due to inadequate stream flow, the SCDNR will recommend the location of a new stream gage.

g. The Department must consult with the SCDNR to quantify the stream flow measured at the specified measuring device that will require a reduction in the applicant's water withdrawal because of inadequate stream flow at the point of withdrawal.

5. Information to be Included in Permit.

Upon review of an application for a new surface water withdrawal permit, the Department will: issue the permit for the volume requested in the application; issue the permit for a lesser volume; or, deny the permit. If the Department intends to issue the permit for a lesser volume, or to deny the permit, the applicant will be notified prior to issuance of a final decision. A new surface water withdrawal permit issued by the Department shall include, at a minimum:

- a. the location of the permittee's intake facility or facilities used or constructed to make withdrawals pursuant to the permit;
- b. the amount of water that may be withdrawn;
- c. the expiration date of the permit and the permit duration in years;
- d. a copy of the final operational and contingency plan developed by the applicant, in conjunction with the Department, addressing operations during times when the actual flow of the surface water is less than or equal to the minimum instream flow plus any flow necessary to protect downstream permitted and registered withdrawals;
- e. the amount of water to be discharged back into the surface water body and location of the discharge;
- f. the volume of supplemental water supply, if needed;
- g. the minimum instream flow at the point of withdrawal, if applicable;
- h. the minimum instream flow triggers that will determine if the permittee's withdrawal must be reduced, if appropriate;
- i. the stream flow that will be used to notify the applicant of starting the reduction of withdrawal as appropriate;
- j. the minimum water level of an impoundment, if appropriate;
- k. a clear statement that the terms and conditions of the permit are subject to the provisions of the S.C. Drought Response Act; and
- l. the address to which a surface water withdrawer must mail notice of intent to return to withdrawing a consumptive amount of surface water.

F. PUBLIC NOTICE REQUIREMENTS FOR NEW OR EXPANDING SURFACE WATER WITHDRAWALS AFTER JANUARY 1, 2011.

Applications for new permits or to significantly increase the amount of water that may be withdrawn under an existing permit must be placed on public notice as required by this regulation to inform the public of the proposed activity and provide the public with the opportunity to comment on the

proposed project and request that a public hearing be held. The applicant shall provide to the Department all appropriate information necessary to conduct public notice except that already on file with the Department.

1. Public Notice of New Permits Not Considered Interbasin Transfers or Expanding Surface Water Withdrawals After January 1, 2011.

Upon receipt of a complete application and filing fee for a new surface water withdrawal permit not considered an interbasin transfer under this regulation or a proposal to significantly increase the amount of water that may be withdrawn under an existing permit, the Department must, within thirty (30) days, provide the public with notice of the application.

- a. The Department will publish notice of the proposed withdrawal or increased withdrawal:
 - i. in accordance with the Department's usual public notice procedures;
 - ii. in a newspaper of statewide circulation and in the local newspaper with the greatest general circulation in the affected area; and
 - iii. on the Department's website.
- b. The public notice must contain:
 - i. the location of the proposed withdrawal or increased withdrawal;
 - ii. the amount of the proposed withdrawal;
 - iii. the use for which the water will be withdrawn;
 - iv. a description of the procedure that a person must follow to submit a comment concerning the proposed withdrawal or increase; and
 - v. the process for requesting a public hearing concerning the application.
- c. If within thirty (30) days of the publication of the public notice the Department receives a request to hold a public hearing from at least twenty (20) citizens or residents of the affected area, the Department must conduct a hearing. A hearing may also be held whenever the Department staff determines that it may be useful in reaching a decision on an application. The hearing must be held within ninety (90) days of the close of the initial public notice period at an appropriate time and in an appropriate location near the specific site of the proposed surface water withdrawal. The hearing may not be held until after at least thirty (30) days' notice is given to the public. Notice shall be provided as in F.1.a above and shall include the provisions of F.1.b plus the date, time and location of the hearing.
- d. If a public hearing is held, the public comment period on an application will automatically be extended to fifteen (15) days past the date of the hearing. Further extensions may be granted at the discretion of the Department.
- e. The following fifteen (15) river basins are to be used when determining the affected area for a particular surface water withdrawal application. 'Affected area' is defined in section B as that portion of a county or counties within a river basin that, under the circumstances, are determined by the Department to likely be affected by a proposed surface water withdrawal.
 - i. The Upper Savannah River Basin drains the area from the headwaters of the Savannah River at the border with North Carolina and Georgia to Stevens Creek Dam and encompasses McCormick and Oconee Counties and portions of Abbeville, Aiken, Anderson, Edgefield, Greenwood, Pickens and Saluda Counties.
 - ii. The Lower Savannah River Basin drains the area from Stevens Creek Dam to the mouth of the Savannah River at the Atlantic Ocean and encompasses portions of Aiken, Allendale, Barnwell, Edgefield, Hampton and Jasper Counties.
 - iii. The Saluda River Basin drains the area from the headwaters of the North and South Saluda Rivers at the border with North Carolina to the confluence of the Saluda River with the Broad River and encompasses portions of Abbeville, Aiken, Anderson, Edgefield, Greenville, Greenwood, Laurens, Lexington, Newberry, Pickens, Richland and Saluda Counties.
 - iv. The Broad River Basin drains the area from the headwaters of the Tyger River in Greenville County, the Enoree and Pacolet Rivers in Spartanburg and Greenville Counties and the Broad River at the border with North Carolina to the confluence of the Broad River with

the Saluda River and encompasses Cherokee, Spartanburg and Union Counties and portions of Chester, Fairfield, Greenville, Laurens, Lexington, Newberry, Richland and York Counties.

v. The Congaree River Basin drains the area from the confluence of the Broad and Saluda Rivers to the confluence of the Congaree River with the Wateree River and encompasses portions of Calhoun, Lexington and Richland Counties.

vi. The Catawba-Wateree River Basin drains the area from Lake Wylie at the North Carolina border to the confluence of the Wateree River with the Congaree River and encompasses portions of Chester, Fairfield, Kershaw, Lancaster, Lee, Richland, Sumter and York Counties.

vii. The Lynches River Basin drains the area from the Lynches River at the North Carolina border to the confluence of the Lynches River with the Pee Dee River and encompasses portions of Chesterfield, Darlington, Florence, Kershaw, Lancaster, Lee, Sumter and Williamsburg Counties.

viii. The Pee Dee River Basin drains the area from the Pee Dee River at the North Carolina border to the confluence of the Pee Dee River with the Waccamaw River at Winyah Bay and encompasses portions of Chesterfield, Darlington, Dillon, Florence, Georgetown, Horry, Marion, Marlboro and Williamsburg Counties.

ix. The Little Pee Dee River Basin drains the area from the Little Pee Dee River and Lumber River at the North Carolina border to the confluence of the Little Pee Dee River with the Pee Dee River and encompasses portions of Dillon, Horry, Marion and Marlboro Counties.

x. The Black River Basin drains the area from the headwaters of the Black River in Kershaw County to the confluence of the Black River with the Pee Dee River and encompasses portions of Clarendon, Florence, Georgetown, Kershaw, Lee, Sumter and Williamsburg Counties.

xi. The Waccamaw River Basin drains the area from the Waccamaw River at the North Carolina border to the mouth of Winyah Bay at the Atlantic Ocean, the area drained by Bull Creek, the area drained by the Sampit River as well as the coastal areas north to Little River Inlet and the North Carolina border and south to South Island and encompasses portions of Georgetown, Horry and Williamsburg Counties.

xii. The Lower Santee River Basin drains the area from the confluence of the Congaree and Wateree Rivers to the mouth of the Santee River at the Atlantic Ocean and encompasses portions of Berkeley, Calhoun, Charleston, Clarendon, Georgetown, Orangeburg, Sumter and Williamsburg Counties.

xiii. The Edisto River Basin drains the area from the headwaters of the North Fork and South Fork Edisto Rivers in Edgefield, Lexington and Saluda Counties to the mouth of the South Edisto River at St. Helena Sound and the North Edisto River at the Atlantic Ocean and encompasses portions of Aiken, Bamberg, Barnwell, Berkeley, Calhoun, Charleston, Colleton, Dorchester, Edgefield, Lexington, Orangeburg and Saluda Counties.

xiv. The Ashley-Cooper River Basin drains the area from the headwaters of Cypress Swamp and Wadboo Swamp in Berkeley County and the Diversion Canal between Lakes Moultrie and Marion to the mouths of the Ashley and Cooper Rivers at Charleston Harbor and the Atlantic Ocean as well as the coastal areas north to Murphy Island and south to Seabrook Island and encompasses portions of Berkeley, Charleston and Dorchester Counties.

xv. The Combahee-Coosawhatchie River Basin drains the area from the headwaters of the Salkehatchie River in Barnwell County to the confluence of the Combahee River with St. Helena Sound and the Atlantic Ocean and the headwaters of the Coosawhatchie River in Allendale County to the confluence of the Broad River with Port Royal Sound and the Atlantic Ocean as well as the coastal areas south to the Georgia border and encompasses Beaufort County and portions of Aiken, Allendale, Bamberg, Barnwell, Colleton, Hampton and Jasper Counties.

2. Public Notice of New Surface Water Withdrawals After January 1, 2011 Considered Interbasin Transfers.

Upon receipt of a complete application and filing fee for a new surface water withdrawal permit that will be considered an interbasin transfer under this regulation, the Department must, within thirty (30) days, provide notice of the proposed withdrawal and transfer, including notice of the mandatory public hearing for interbasin transfer projects.

a. Notice of the proposed new interbasin transfer permit will be made in the following manner:

- i. in accordance with the Department's usual public notice procedures;
- ii. by submittal for publication in the South Carolina State Register;
- iii. by publication in a newspaper of statewide circulation and in a local newspaper of general circulation in the affected area of the river basin downstream from the point of withdrawal;
- iv. by publication on the Department's website; and
- v. through standard United States mail to:

(A) any person holding a permit issued by the Department authorizing surface water withdrawals, including interbasin transfers, from the river basin from which the water for the proposed transfer would be withdrawn;

(B) any person holding a National Pollutant Discharge Elimination System (NPDES) wastewater discharge permit authorizing wastewater discharge into the river basin where the proposed withdrawal point of the proposed interbasin transfer is located;

(C) any city or county governing body whose jurisdiction is located entirely or partially within the river basin that is the source of the proposed transfer;

(D) the governing body of a public water supply system that withdraws water from the same river basin where the proposed withdrawal point of the proposed transfer is located;

(E) any agency from another state where an interstate water basin is the source of the proposed transfer;

(F) the South Carolina Department of Natural Resources; and

(G) the owner of any licensed or otherwise flow controlled impoundment that would be impacted by the withdrawal.

b. The notice must include:

- i. the location of the proposed withdrawal;
- ii. the name of the losing basin and the gaining basin;
- iii. the amount of the proposed withdrawal and the amount to be transferred from the losing basin;
- iv. a non-technical description of the applicant's request;
- v. the use for which the water will be withdrawn;
- vi. a conspicuous statement in bold type describing the effects of the interbasin transfer on the river basin from which the water will be withdrawn and the river basin into which the withdrawn water will be transferred;
- vii. a description of the procedure that a person must follow to submit a comment concerning the proposed interbasin transfer; and
- viii. the location, date, and time of the mandatory hearing for the project which is to be held at an appropriate time and appropriate location near the withdrawal point of the interbasin transfer. The hearing may not be held until at least thirty (30) days after publication of the notice in the State Register.

c. The public comment period on an interbasin transfer application will automatically extend to fifteen (15) days past the date of the hearing. Further extensions may be granted at the discretion of the Department.

d. For the purposes of this regulation, an interbasin transfer is considered the transfer of three million (3,000,000) gallons or more of water in any one month from one of the following USGS defined basins to a different basin such that the water is permanently lost from the basin of origin. The transfer of water from one basin to another is not considered an interbasin transfer if transferred water is returned or discharged to the basin of origin such that the quantity of water permanently lost to the basin of origin is less than three million (3,000,000) gallons in any one month.

- i. Savannah River Basin, Hydrologic Unit Codes: 03060101, 03060102, 03060103, 03060106, 03060107, 03060109, 03060110;
- ii. Saluda River Basin, Hydrologic Unit Codes: 03050109, 03050110;
- iii. Santee River Basin, Hydrologic Unit Codes: 03050111, 03050112, 03050201, 03050202, 03050209;
- iv. Edisto River Basin, Hydrologic Unit Codes: 03050203, 03050204, 03050205, 03050206;
- v. Salkehatchie River Basin, Hydrologic Unit Codes: 03050207, 03050208, 03050210;
- vi. Pee Dee River Basin, Hydrologic Unit Codes, 03040104, 03040105, 03040201, 03040202, 03040203, 03040204, 03040205, 03040206, 03040207, 03040208;
- vii. Catawba River Basin, Hydrologic Unit Codes: 03050101, 03050103, 03050104; or
- viii. Broad River Basin, Hydrologic Unit Codes: 03050105, 03050106, 03050107, 03050108.

G. NONCONSUMPTIVE USE SURFACE WATER WITHDRAWAL PERMITS.

1. Requirements to be Considered a Nonconsumptive Use Withdrawer.

Upon proper application and submittal of appropriate fees, the Department shall issue permits for surface water withdrawals that are considered nonconsumptive uses. A nonconsumptive user is one that uses surface water in such a manner that more than ninety (90) percent of the water withdrawn is returned to its waters of origin within the boundaries of contiguous property owned by the surface water withdrawer; provided:

- a. the amount of water not returned to the water source does not exceed three million (3,000,000) gallons during any one month; or
- b. the amount of water not returned to the water source does not significantly reduce the safe yield at the point of withdrawal.

2. Additional Application Requirements for Nonconsumptive Use Permits.

For any person requesting a permit pursuant to Section 49-4-40 (non-consumptive use permit), the application must include, in addition to the other information required in subsection D.1 or E.2 of this regulation, as appropriate, the following:

- a. a tax map showing intake and discharge points and property boundaries;
- b. a discussion of the timing of the discharge of the water, e.g. is any form of hydrograph control release being considered;
- c. for an existing surface water withdrawer as of January 1, 2011, who would like to be considered a nonconsumptive user, an analysis of withdrawal and discharge data for the previous twenty four (24) months showing that the provisions of subsection G.1 above will be met; and
- d. for a proposed new or expanding surface water withdrawer who would like to be considered a nonconsumptive user, an engineering analysis demonstrating that the provisions of subsection G.1 above will be met.

3. Reconsideration of Nonconsumptive Use Status.

If, after twenty-four (24) months of operation, a nonconsumptive permittee is shown not to meet the criteria of a non-consumptive user, the original permit application will be reevaluated. For an existing surface water withdrawer, a permit will be issued under section D of this regulation. For a non-consumptive use permit issued under section E of this regulation, a full review under section E will be conducted and an appropriately conditioned permit issued if the project is found to be reasonable under the Act.

4. Information to be Included in Permit.

A permit for a nonconsumptive use must identify the surface water withdrawer, the point of withdrawal, the maximum withdrawal amount, and the point of return. Such permits are subject only to the reporting requirements of section N.

H. PERMIT DURATION.

Permits issued by the Department, unless revoked or suspended pursuant to statute or this regulation, shall be valid for a period to represent the economic life of any capital investments made by the permittee necessary to carry out the permittee's use of the withdrawn water.

1. Permit Duration for Existing Surface Water Withdrawers as of January 1, 2011.

Permits for existing surface water withdrawers as of January 1, 2011 must be issued for:

- a. thirty (30) years for a permittee entitled to an initial permit pursuant to Section 49-4-70(B), or a greater period the Department considers reasonable based upon its review of all the facts and circumstances relevant to the proposed withdrawal not to exceed an additional ten (10) years; or
- b. any additional period necessary, not to exceed a total of fifty (50) years, for a municipality or other governmental body to retire a bond it issued to finance the construction of waterworks.

2. Permit Duration for a New or Expanding Surface Water Withdrawer After January 1, 2011.

For applicants for new or expanding surface water withdrawers after January 1, 2011 whose use is found to be reasonable under the provisions of the Act and this regulation, permits must be issued for:

- a. twenty (20) years, or a greater period the Department considers reasonable based upon its review of all the facts and circumstances relevant to a proposed withdrawal not to exceed an additional twenty (20) years; or
- b. any additional period necessary, not to exceed a total of fifty (50) years, for a municipality or other governmental body to retire a bond it issued to finance the construction of waterworks.

I. RENEWAL PROCESS FOR SURFACE WATER WITHDRAWAL PERMITS.

1. Permits Issued to Existing Surface Water Withdrawers.

a. An existing surface water withdrawer as defined by this regulation may renew its surface water withdrawal permit by making application no more than six (6) months prior to the expiration date, on a form to be supplied by the Department, pursuant to the criteria of section D of this regulation. Renewals of permits held by existing surface water withdrawers are not subject to the permitting criteria in section E. of this regulation, minimum flow requirements, or additional supplemental water contingency planning requirements, and are not subject to the requirements of subsection I.2 of this regulation. A permit shall remain valid during the Department's consideration of a renewal application if the permittee files a complete renewal application prior to the expiration date of the permit. Renewal applications take priority over permit applications for new withdrawals. Renewal of a permit issued to an existing surface water withdrawer shall be for the quantity of water specified in the current permit unless the Department demonstrates that the quantity above the maximum withdrawals during the permit term are not necessary to meet the permittee's future needs.

b. An existing surface water withdrawer as defined by this regulation may, while renewing its surface water withdrawal permit, simultaneously apply for a modification to increase the amount of withdrawal. While the Department will review and approve the initially authorized amount consistent with section D. of this regulation, the proposed expansion will be evaluated based on the criteria of section E. of this regulation. If a modification is granted allowing additional withdrawal flow, subsequent permit renewals will evaluate the amount authorized in the initial permit under item I.1.a of this regulation while any additional amount authorized after issuance of the initial permit will be evaluated under item I.2.a. of this regulation. However, an application to modify an existing permit for a significant increase in the quantity of the withdrawal for surface water withdrawals authorized pursuant to Section 49-4-40 or Section 49-4-45 shall be subject only to the requirements set forth in that section.

2. Permits Issued to Surface Water Withdrawers Considered New or Expanding After January 1, 2011.

a. Any person considered a new surface water withdrawer permitted after January 1, 2011, or an existing surface water withdrawer issued a modification to their initial permit under section E may request renewal of its permit by making application no more than six (6) months prior to the expiration date, on a form to be supplied by the Department. A permit shall remain valid during the Department's consideration of a renewal application if the permittee files a complete renewal application prior to the expiration date of the permit. The renewal application for a new surface water withdrawer will be evaluated based on the criteria of section E of this regulation. The renewal application for an existing surface water withdrawer as defined by this regulation who has received an expanded surface water permit under section E will be evaluated under the

appropriate criteria of sections D and E. Unless a modification is requested, permits must be renewed for a quantity equal to the expired permit unless the Department demonstrates that the quantity above maximum withdrawals during the permit term is not necessary to meet the permittee's future needs. Renewal applications take priority over permit applications for new withdrawals.

b. A surface water withdrawer may, while renewing its permit, simultaneously apply for a modification to increase the amount of withdrawal. Any proposed expansion quantity will be evaluated based on the criteria of section E. of this regulation; however, any significant increase in surface water withdrawals authorized pursuant to Section 49-4-40 or Section 49-4-45 shall be subject only to the requirements set forth in that section.

J. ACTIONS ON PERMIT APPLICATIONS MODIFICATIONS, REVOCATIONS AND DENIALS.

1. Authority to Take Action on Permits.

The Department may modify, suspend, or revoke a permit under the following conditions:

- a. the permit holder withdraws water not authorized by its permit or fails to comply with the terms and conditions of its permit;
- b. the permit holder obtains a permit by misrepresentation or fails to disclose a material fact in its application;
- c. the permit holder ceases to withdraw water for a period of at least thirty-six (36) consecutive months;
- d. a permanent change in natural conditions results in a permitted activity endangering human health or the environment; or
- e. if a permit holder requests a significant increase in surface withdrawal quantity, a significant change in use, such as a new or increased interbasin transfer, or a change in consumptive use.

2. Transferability of Permits.

a. Surface water permits are transferable with the prior written consent of the Department provided:

- i. the current permittee notifies the Department at least sixty (60) days in advance of the proposed transfer date; and
- ii. the activities and uses of the new permittee are consistent with the activities of the original permittee.

b. In determining whether to allow the transferring of a permit, the Department will consider:

- i. whether the use to be made of the water by the new permittee is consistent with the previous use;
- ii. the quantity of water to be used by the new permittee as compared to permitted amount and previous use;
- iii. if consumptive use under the new permittee is consistent with the previous permittee; and
- iv. the location of water use under the new permittee.

c. Depending on the specifics of the proposed transfer, the Department may transfer the permit as originally issued, transfer the permit at a decreased flow or deny the transfer.

K. EXISTING INTERBASIN TRANSFER PERMITS AND REGISTRATIONS.

The expiration date of an interbasin transfer permit or interbasin registration, including any water withdrawal right or authority contained in the permit or registration, in existence on January 1, 2011, remains effective. For the purposes of this chapter, existing interbasin transfer permit or interbasin registration holders are deemed to be existing surface water withdrawers. A renewal of an interbasin transfer permit or registration must be made pursuant to the criteria established in Section 49-4-10 et seq. for existing surface water withdrawers, except that permits or registrations renewed within three (3) years after the effective date of this chapter must be renewed for a quantity at least equal to the permitted quantity in the expired permit. All other renewals must be issued in accordance with the criterion applicable to existing surface water withdrawers and for a quantity equal to the permitted

quantity in the expired permit, unless the Department demonstrates by a preponderance of the evidence that the quantity above maximum withdrawals during the permit term are not necessary to meet the permittee's future need.

L. REGISTRATION OF AGRICULTURAL WITHDRAWALS.

1. Requirement to Register.

a. Persons withdrawing water in excess of three million (3,000,000) gallons during any one (1) month for agricultural purposes must register their use with the Department on forms provided by the Department.

b. Registered surface water withdrawers are subject to the reporting requirements but not the permitting requirements of this regulation.

c. A registered surface water withdrawer may, at any time, request an increase in its registered amount; however, withdrawals that are not substantially greater than the registered amount do not necessarily require a modification to the registration.

d. Nothing in this regulation prohibits a registered surface water withdrawer from applying for and receiving a surface water withdrawal permit, consistent with applicable provisions of this regulation. A registered surface water withdrawer that obtains a permit is entitled to all of the rights conferred upon by a permit.

2. Existing Agricultural Withdrawals.

a. An existing agricultural withdrawer already reporting its withdrawal to the Department as of January 1, 2011, may maintain its withdrawal(s) at its highest reported level or at the design capacity of the intake structure(s) existing as of January 1, 2011, and is deemed to be registered with the Department.

b. The Department will notify the withdrawer of the registration and the allowed level of withdrawal based on the highest reported level of withdrawal. The notification will stipulate that the withdrawer may, no later than sixty (60) days from the date of notification, provide to the Department appropriate documentation showing the permanent intake capacity as of January 1, 2011 to be greater than the highest reported level of withdrawal and be registered for the higher amount.

3. New or Expanding Agricultural Withdrawals After January 1, 2011.

a. A person proposing to withdraw water for agricultural purposes in a quantity anticipated to meet the criteria of a surface withdrawer or an existing registered withdrawer seeking to increase its registered amount must report, on a form to be supplied by the Department, its anticipated withdrawal quantity or increase to the Department for determination as to whether that quantity is within the safe yield for that water source at the time of the request. The safe yield will be determined consistent with item E.3.a.ii of this regulation.

b. Upon making a safe yield determination, the Department must send a description of its determination to the proposed registered surface water withdrawer by registered mail.

i. If the anticipated withdrawal quantity or increase is determined to be within the safe yield of the source waterbody, the withdrawal will be considered registered with the Department for the anticipated quantity and the notification will constitute authorization to proceed with construction and operation of the withdrawal at the specified amount.

ii. If the anticipated withdrawal quantity or increase is determined not to be within the safe yield of the source waterbody, then the proposed new registered surface water withdrawer may not proceed with the construction or installation of a new water intake pursuant to this regulation nor can an existing registrant increase withdrawals above their current registered amount. However, the registrant may modify its request to reflect a reduced withdrawal quantity or increase that is within the safe yield.

c. A person receiving authorization to construct and operate a withdrawal or expand an existing withdrawal under this section must notify the Department of completion of the intake or expansion within thirty (30) days after completing construction. If notification of completion of construction is not received by the Department within one (1) year of the date of authorization provided under item L.3.b.i above, authorization to construct or expand and operate a surface water withdrawal is revoked unless the Department extends the time period.

4. Application Requirements.

a. At a minimum, the form for reporting an anticipated withdrawal quantity, for registering a withdrawal, or for requesting an increase in the amount of surface water withdrawn must include the following information:

- i. the name, address, phone number(s), principal place of business of the person applying for the registration or registration modification and, if applicable, the name and address of the agent for the applicant;
- ii. the location of the proposed intake(s) or the existing intake(s) to be expanded, including:
 - (A) name of source waterbody;
 - (B) latitude and longitude of intake; and
 - (C) a map showing the withdrawal point(s) on a 1:24,000 scale USGS quadrangle or equivalent;
- iii. the quantity of water for which the registration is being requested;
- iv. the capacity of the intake; and
- v. the type of intake, either permanent or mobile.

b. [Reserved]

5. Regulatory Authority.

The Department may modify the amount an existing registered surface water withdrawer may withdraw, or suspend or revoke a registered surface water withdrawer's authority to withdraw water, if the registered surface water withdrawer withdraws substantially more surface water than he is registered for and the withdrawals result in detrimental effects to the environment or human health.

M. TEMPORARY PERMITS AND EMERGENCY WITHDRAWALS.

1. Temporary Permits.

a. The Department may issue a temporary surface water withdrawal permit to a new applicant while its application is pending, if:

- i. a complete application has been submitted pursuant to section E. of this regulation; and
- ii. the temporary permit is necessary to address an imminent hazard to public health; or,
- iii. the applicant demonstrates that without a temporary permit he will suffer physical or financial damage.

b. A temporary permit must contain an expiration date, which must not be more than one hundred eighty (180) days after it was issued.

c. A temporary permit for a new surface water withdrawal cannot be issued for a quantity of water greater than the quantity specified in the complete application.

d. A temporary permit must specify the minimum instream flow at the point of the proposed withdrawal and include a provision that the withdrawal cannot cause the instream flow below the withdrawal to fall below the minimum instream flow.

e. It shall be the responsibility of any new surface water withdrawer issued a temporary permit to document instream flow for the duration of the temporary permit.

f. A person may request a temporary permit through submittal of the initial permit application or at any time during the agency review of the initial permit application.

2. Emergency Withdrawals.

a. The following withdrawals are exempt from the permitting, registering, and reporting requirements:

- i. firefighting;
- ii. hazardous substance or waste-spill response; and
- iii. other emergency withdrawal of water determined necessary by the Department to protect public health and safety.

b. An emergency withdrawal of water shall not exceed thirty (30) consecutive days.

c. It is the intent of this section to allow emergency withdrawals only in cases necessary to protect public health and safety. Economic duress is not considered an emergency under this regulation.

N. REPORTING.

1. Requirement to Report.

Each permitted or registered surface water withdrawer must file a report with the Department of the quantity of water withdrawn by that surface water withdrawer annually before February first, on forms furnished by the Department.

2. Methods of Measuring Withdrawal Quantity.

The quantity of surface water withdrawn must be determined by one of the following:

- a. flow meters accurate to within ten percent of calibration;
- b. the rated capacity of the pump in conjunction with the use of an hour meter, electric meter, or log;
- c. the rated capacity of the cooling systems;
- d. any standard or method employed by the USGS in determining these quantities; or
- e. any other method found to provide reliable water withdrawal data approved by the Department.

3. Reporting Exemption.

Permitted and registered surface water withdrawers who are required to file a surface water withdrawal report pursuant to regulation are not required to submit the report if the monthly quantity withdrawn from each intake is being reported to the Department as a result of another environmental program reporting requirement, permit condition, or consent agreement.

O. ENFORCEMENT.

1. Violations.

A surface water withdrawer who commits a violation of this regulation:

- a. is subject to a civil penalty of not more than ten thousand (10,000) dollars for each day that the violation occurred; or
- b. is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand (10,000) dollars for each day that the violation occurred, if the violation is willful.

2. Penalties.

All penalties and fines collected pursuant to this section must be deposited in the general fund of the State of South Carolina.

P. OTHER DEPARTMENT AUTHORITY.

1. Department Authority.

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

b. The Department may represent the State in connection with water withdrawals, diversions, or transfers occurring in other states that may affect this State.

c. The Department must notify the Chairman of the Senate Agriculture and Natural Resources Committee and the Chairman of the House Agriculture, Natural Resources, and Environmental Affairs Committee when the Department enters into negotiations or otherwise represents the State as provided in this section. The Department must periodically report, as necessary or upon request, to the chairmen concerning the progress of the negotiations or representation.

d. Department representatives may enter upon any land or water for the purpose of conducting investigations, examinations, or surveys necessary to carry out its duties and responsibilities

provided in this regulation. The Department will adhere to security and safety requirements that may apply at the site and/or facility.

e. The Department may receive financial and technical assistance from private entities, the federal government, or another state agency.

f. The Department may take any action reasonable and necessary to enforce the provisions of this regulation.

2. [Reserved]

Q. SURFACE WATER PERMITTING AND WITHDRAWAL FEES.

1. Fee Structure.

The Department is authorized to collect a fee for each permit application and an annual operating fee for each permitted intake. The fee collected must be returned to the Department for the purposes of implementing the Surface Water Permitting and Withdrawal regulatory program including permit application review, compliance inspections, and enforcement; and for providing technical assistance and monitoring. The fee(s) shall be as follows:

Existing surface water withdrawal permit application processing fee	\$1,000
New surface water withdrawal permit application processing fee	\$7,500
Modification of surface water withdrawal permit application processing fee	\$2,000
Renewal of surface water withdrawal permit with modifications application processing fee	\$1,000
Surface water withdrawal annual operating fee per permitted intake	\$1,000

2. Application Processing Requirements.

a. Application fees shall be due when the application is submitted. The Department will not process an application until the application fee is received. If the applicant withdraws the permit application anytime before the application has been deemed administratively complete, the Department shall refund the entire application fee to the applicant.

b. Upon receipt of an application and appropriate fee, the Department must within ninety (90) days make a decision on the completeness of the application. If notice that the application is administratively complete or notice that the application is not Administratively Complete, together with notice of the specific items deemed to be lacking, is not mailed to an applicant within ninety (90) working days of receipt of an application, the application is deemed complete and the allowed processing time period will begin.

c. Once an applicant has been notified that the application is administratively complete or has been deemed complete according to item 2.b above, the Department shall issue or deny the permit within three hundred sixty five (365) days of that date. If no permit decision has been rendered by the end of the relevant time period, the application fee shall be refunded. If an application fee is refunded due to the Department exceeding the relevant time period, the application remains active.

d. The time period shall be tolled in the following instances.

i. The time period shall be tolled when the Department makes a written request for additional information and shall resume when the Department receives all requested information from the applicant. If an applicant fails to respond to or satisfy such a request within one-hundred eighty (180) days, the Department shall consider the application withdrawn and the application fee will be forfeited. The Department shall notify the applicant no later than ten (10) days prior to expiration of the 180-day period.

ii. The time period shall be tolled if the applicant requests that the permit review be suspended or if the applicant requests in writing that additional time be provided and the Department agrees to the request in writing and specifies an additional period.

iii. The time period shall be tolled if the Department, at least ten (10) days prior to the expiration date, requests a delay in the review process to which the applicant agrees.

iv. The time period shall be tolled if the Department holds a public hearing, in which case the time schedule will be tolled for no more than sixty (60) days.

v. The Department shall notify the applicant when the time period is being tolled and untolled.

e. All times given in days are given in calendar days unless otherwise noted. The last day of the period is to be included, unless it is a Saturday, Sunday, or legal holiday, in which case the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. The day notice is mailed to the applicant that the application is deemed administratively complete shall be counted.

f. The Department may determine that the applicant has filed a new application whenever additional information provided by the applicant during any Departmental review period, in response to any statement identifying deficiencies in the application or supporting materials, or during any period allowed for public comment, either:

i. results in a change in the category in which the permit application is classified; or

ii. significantly increases or changes the nature of the potential effects of the proposed project or activity on public health and safety or the environment.

iii. Upon making a determination that the applicant has filed a new application, the Department shall promptly notify the applicant in writing. The notice shall indicate the basis for the determination and summarize the provisions relative to such determinations.

(A) Immediately upon issuance of the notification, the schedule for timely action shall be suspended.

(B) If the determination resulted from a proposed change in design or operation of the proposed project or activity the applicant may, within thirty (30) days, withdraw the change and return to its previous proposal by so notifying the Department in writing. If the applicant so notifies the Department, the schedule for timely action shall resume at the point at which it was suspended.

(C) If the determination resulted from any other cause, or if the applicant does not elect to withdraw the change, the Department shall begin a review of the new application pursuant to the relevant schedule for timely action.

(D) Unless the applicant elects to proceed with the previous application, the original application shall be deemed withdrawn after the start of technical review, and the fee shall be forfeited. Appropriate fees as defined in this section shall be due for the modified application.

(E) The determination that a project has changed shall not be grounds for a request for adjudicatory hearing; however, an applicant aggrieved by such a determination may seek review of the determination as an issue in any appeal of the permit decision.

iv. This provision does not apply to initial permits issued pursuant to section D of this regulation.

g. The time periods for the Department to take any action shall be extended whenever:

i. action by another federal, state, or municipal governmental agency is required before the Department may act; or

ii. judicial proceedings then underway affect the ability of the Department or the applicant to proceed with the application; or

iii. when the Department has commenced enforcement proceedings that could result in revocation of an existing permit for that facility or activity and denial of the application; or

iv. a check or other form of payment of an application fee is returned for insufficient funds, or if payment in full is in any other manner prevented.

h. The applicant shall promptly notify the Department in writing whenever it believes that action by another governmental agency is required, or that judicial proceedings affect the ability of the Department or the applicant to proceed with the application.

i. The Department shall provide written notice to the permit applicant within fifteen (15) days of making a determination that an extension is necessary. Such notice shall contain a statement of the reasons for which the schedule must be extended.

j. When the Department determines that the reason for such extension is no longer applicable, the Department shall so notify the applicant in writing within fifteen (15) days of making such determination. The time period for the Department to complete a timely review shall begin on the day the notice is mailed.

3. Annual Operating Fees.

a. Annual operating fees per permitted intake are assessed on the State fiscal year of July 1 through June 30 of the following year. The holder of any valid permit on July 1 of each year will be assessed appropriate fees for the entire following fiscal period. Assessment of annual operating fees will begin July 1 following initial permit issuance.

b. Annual operating fees are due within thirty (30) days of billing. Unpaid fees, late fees, and returned checks are subject to the provisions of item Q.3.d below.

c. Unless the permittee seeks an extension of the time for making payment, the permittee shall make payment in full on or before the due date, and in the manner and form, specified in the invoice. Except to the extent authorized by the Department, late payment, nonpayment, partial payment, or failure to make payment in the specified manner and form shall constitute a failure by the permittee to pay the fee when due.

d. Annual operating fees remaining unpaid thirty (30) days after billing will be issued a late notice with no penalty due; however, it will contain advisement of penalty for non-payment after sixty (60) days. Fees remaining unpaid after sixty (60) days will be assessed a ten (10) percent penalty. Persons delinquent will be issued a notice of the ten (10) percent penalty due the Department as well as advisement of further penalties should fees remain unpaid. Fees remaining unpaid at the end of ninety (90) days will be assessed a twenty-five (25) percent penalty in addition to the ten (10) percent sixty (60) day penalty. The sum of both penalties may not exceed five thousand (5,000) dollars. Persons delinquent at the end of ninety (90) days under this paragraph will be notified by the Department by certified mail at their last known address.

4. General Fee Provisions.

a. The Department will not issue new permits, modifications, revisions, or reissue a surface water withdrawal permit for a facility that is in default of fees due under this regulation.

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

c. Failure to pay fees may result in the revocation of an existing permit.

d. All fees shall be payable to the Department of Environmental Services.

R. COMPLIANCE WITH OTHER STATUTES AND REGULATIONS.

Nothing in this regulation shall relieve any person regulated herein of the duty to comply with all other applicable statutes and regulations.

S. SEVERABILITY CLAUSE.

If any section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, or word of this regulation is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this regulation.

HISTORY: Added by State Register Volume 36, Issue No. 6, eff June 22, 2012. Amended by SCSR 49-5 Doc. No. 5333, eff May 23, 2025.

61-120. Transferred.

HISTORY: Former Regulation, titled South Carolina Immunization Registry, had the following history: Added by State Register Volume 37, Issue No. 5, eff May 24, 2013. Amended by SCSR 43-5 Doc. No. 4837, eff May 24, 2019. Transferred by SCSR 49-5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60-120.

61–122. Transferred.

HISTORY: Former Regulation, titled **Standards for Licensing In-Home Care Providers**, had the following history: Amended by State Register Volume 38, Issue No. 6, Doc. No. 4433, eff June 27, 2014; State Register Volume 38, Issue No. 7, Doc. No. 4433, eff July 25, 2014 (errata). Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–122.

61–123. Transferred.

HISTORY: Former Regulation, titled **Critical Congenital Heart Screening on Newborns**, had the following history: Added by State Register Volume 38, Issue No. 6, Doc. No. 4429, eff June 27, 2014. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–123.

61–124. Consumer Electronic Equipment Collection and Recovery.

(Statutory Authority: 1976 Code Section 48–60–5 et seq.)

A. [Repealed. See Editor's Note.]

B. [Repealed. See Editor's Note.]

C. [Repealed. See Editor's Note.]

D. [Repealed. See Editor's Note.]

E. Disposal Prohibition for Covered Devices.

1. A consumer must not knowingly place or discard a covered device or subassemblies of a covered device containing any electronics, leaded glass or metal electronic components in a waste stream that is to be disposed of in a solid waste landfill.

2. An owner or operator of a solid waste landfill must not, at the gate, knowingly accept, for disposal, loads containing more than an incidental amount of covered devices.

3. The owner or operator of a solid waste transfer station or landfill must post, in a conspicuous location, a sign informing the public that covered devices or any components of covered devices containing any electronics, leaded glass or metal electronic components are not accepted for disposal at the landfill.

F. [Repealed. See Editor's Note.]

G. [Repealed. See Editor's Note.]

H. [Repealed. See Editor's Note.]

I. [Repealed. See Editor's Note.]

J. [Repealed. See Editor's Note.]

K. [Repealed. See Editor's Note.]

L. [Repealed. See Editor's Note.]

M. [Repealed. See Editor's Note.]

N. [Repealed. See Editor's Note.]

O. [Repealed. See Editor's Note.]

P. [Repealed. See Editor's Note.]

State Register Volume 40, Issue No. 2, Doc. No. 4539, eff February 26, 2016.

Editor's Note

2014 Act No. 129, § 14, amended by 2021 Act No. 82, § 1, provides as follows:

"SECTION 14.A. Section 48–60–50 of the 1976 Code, as amended by Section 3 of this act, is repealed December 31, 2014. The remaining provisions of Chapter 60, Title 48 of the 1976 Code, except Section 48–60–90, are repealed December 31, 2023."

"B. Notwithstanding subsection P, Regulation 61–124, except for the provisions of subsection E, are repealed December 31, 2023."

61–125. Transferred.

HISTORY: Former Regulation, titled **Standards for Licensing Crisis Stabilization Unit Facilities**, had the following history: Added by SCSR 43–5 Doc. No. 4809, eff May 24, 2019. Transferred by SCSR 49–5 Doc. No. 5352, eff May 23, 2025. See, now, SC ADC 60–125.