Agency Name: Department of Health and Environmental Control

Statutory Authority: 44-55-40

Document Number: 4571

Proposed in State Register Volume and Issue: 39/6

House Committee: Regulations and Administrative Procedures Committee

Senate Committee: Medical Affairs Committee

120 Day Review Expiration Date for Automatic Approval: 05/11/2016

Final in State Register Volume and Issue: 40/5

Status: Final

Subject: Well Standards

History: 4571

By Date Action Description Jt. Res. No. Expiration Date

- 06/26/2015 Proposed Reg Published in SR

- 01/12/2016 Received by Lt. Gov & Speaker 05/11/2016

H 01/12/2016 Referred to Committee

S 01/13/2016 Referred to Committee

H 02/25/2016 Resolution Introduced to Approve 4983

- 05/11/2016 Approved by: Expiration Date

- 05/27/2016 Effective Date unless otherwise

 provided for in the Regulation

Document No. 4571

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

CHAPTER 61

Statutory Authority: 1976 Code Section 44-55-40

61-71. Well Standards

**Synopsis:**

South Carolina Regulation 61-71, Well Standards, was last substantively amended on April 26, 2002. The regulation contains the minimum standards for the construction, maintenance, and operation of the following wells: individual residential, irrigation, monitoring (including non-standard installations), and boreholes to ensure that underground sources of drinking water are not contaminated and public health is protected.

These amendments updated R.61-71 to be consistent with R.61-56, Onsite Wastewater Systems*,* and clarified that R.61-71 applies to injection wells as specified in R.61-87, Underground Injection Control Regulations. Additionally, stylistic changes were made for clarity and consistency to improve the overall quality of the Regulation.

A Notice of Drafting for these amendments was published in the *State Register* on February 27, 2015.

Section-by-Section Discussion of Amendments

**61-71. Well Standards.**

The statutory authority citation was moved from below the Table of Contents to the correct location directly under the title of the Regulation for consistency with other Department regulations, and the section symbols were replaced with written textto meet State Register standard for drafting regulations. Symbols do not always convert as intended in other electronic formats and writing them out in text form avoids future software conversion problems. These non-substantive changes improved the overall quality of the regulation.

**61-71.A. Purpose and Scope**

Text was added that clarifies the applicability of R.61-71 to the construction and abandonment of injection wells as is currently stated in R.61-87, Underground Injection Control Regulations. Additional revisions to the Purpose and Scope provided more complete regulation citations for clarity and made grammatical changes to improve the readability of the text*.*

**61-71.D.1.**

This was a stylistic change to correctly cite the statute for consistency. There is no change in legal meaning.

**61-71.D.2.**

This amendment added the title of R.61-81 for clarity and consistency with other cited regulations in R.61-71.

**61-71.E. Location of Wells**.

Section 61-71.E.1(c) was changed from 50 feet to 75 feet to be consistent with the separation distance between a private well (individual residential and irrigation wells) and an onsite wastewater system (septic tank/tile fields) as required in R.61-56, Onsite Wastewater Systems.

**Instructions:** Amend Regulation 61-71 pursuant to each individual instruction provided with the text of the amendments below.

**Text:**

**Revise Regulation Heading: Move statutory authority following the Table of Contents to directly under the title of the Regulation and replace the section symbols with written text to read:**

**61-71. Well Standards.**

 (Statutory Authority: 1976 Code Sections 48-1-10 et seq. and Sections 44-55-10 et seq.)

 TABLE OF CONTENTS

A. PURPOSE AND SCOPE

B. DEFINITIONS

C. VARIANCES

D. GENERAL

E. LOCATION OF WELLS

F. INDIVIDUAL RESIDENTIAL AND IRRIGATION WELLS

G. BORED INDIVIDUAL RESIDENTIAL AND IRRIGATION WELLS

H. MONITORING WELLS

I. BORINGS

J. GEOTHERMAL SYSTEM WELLS

K. VIOLATIONS AND PENALTIES

L. SEVERABILITY

**Revise 61-71.A to read:**

**A. Purpose and Scope.**

These regulations establish minimum standards for the construction, maintenance, and operation of the following wells: individual residential, irrigation, monitoring (including non-standard installations), and boreholes to ensure that underground sources of drinking water are not contaminated and public health is protected. These regulations do not apply to public water wells as those standards are stated in R.61-58, State Primary Drinking Water Regulations. Underground injection of fluids is regulated under R.61-87, Underground Injection Control Regulations. In accordance with R.61-87, the minimum standards for construction and abandonment of injection wells are as stated for all wells in this Regulation. Additional requirements for wells may be found in the following regulations: for injection wells, see R.61-87, Underground Injection Control Regulations; for water wells that produce greater than 3 million gallons in any month, see R.61-113, Groundwater Use and Reporting; for oil and gas exploration and production wells, see R.121-8, Oil and Gas Exploration, Drilling, and Production*;* and for monitoring and remediation wells at hazardous waste sites, see R.61-79, Hazardous Waste Management Regulations. Permitting requirements for Individual Residential Wells and Irrigation Wells are found in R.61-44, Individual Residential Well and Irrigation Well Permitting.

**Revise 61-71.D.1. to read:**

1. All wells shall be drilled, constructed, and abandoned by a South Carolina certified well driller per S.C. Code Section 40-25-10 et seq.

**Revise 61-71.D.2. to read:**

2. Analytical data submitted to the Department shall be from a South Carolina Certified Laboratory per R.61-81, State Environmental Laboratory Certification Program.

**Revise 61-71.E.1(c) to read:**

 (c) Septic tank/tile fields....................................................................75 feet

**Fiscal Impact Statement:**

The revised regulation will have no substantial fiscal or economic impact on the State or its political subdivisions. Implementation of this regulation will not require additional resources beyond those allowed. There is no anticipated additional cost by the Department or State government due to any inherent requirements of this regulation.

**Statement of Need and Reasonableness:**

The following is based on an analysis of the factors listed in 1976 Code Section 1-23-115(C)(1)-(3) and (9) through (11):

DESCRIPTION OF REGULATION:

Purpose: The amendments update R.61-71 to be consistent with separation distance requirements for private wells and onsite wastewater systems in R.61-56, Onsite Wastewater Systems and clarify the applicability of R.61-71 to injection wells as specified in R.61-87, Underground Injection Control Regulations. Additionally, stylistic changes were made for clarity and consistency to improve the overall quality of the Regulation.

Legal Authority: 1976 Code Section 44-55-40.

Plan for Implementation: The amendments will be incorporated within Regulation 61‑71 upon approval by the General Assembly and publication as final regulations in the State Register*.* Regulation 61-71, to include these latest amendments, will be published on the Department’s Laws and Regulations website and will subsequently be incorporated into Regulation 61-71 in the S.C. Code of Regulations. The amendments will be implemented in the same manner in which the current regulation is implemented.

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

The adoption of these amendments is needed and reasonable because they provide clarification regarding applicability and eliminate any potential inconsistency between Department regulations.

DETERMINATION OF COSTS AND BENEFITS:

Internal Costs: Implementation of these amendments will not require additional resources. There is no anticipated additional cost by the Department or State government due to any inherent requirements of these amendments.

External Costs: There are no anticipated external costs for implementing these amendments to clarify the applicability of R.61-71 to injection wells as currently stated in R.61-87. A 75-foot separation between onsite wastewater systems and private wells is required by R.61-56. Consequently, minimal external costs are anticipated for making this regulation consistent with R.61-56.

External Benefits: These amendments affect those who install private wells and injection wells. The amendments eliminate inconsistencies between regulations and provide clarification regarding the applicability of the regulation.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The amendments will have no anticipated effect on the environment.

The amendments seek to benefit human health by increasing the separation distance between private wells and onsite wastewater systems (septic tanks/tile fields).

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

There is no anticipated detrimental effect on the environment.

If the amendments are not implemented, owners of private wells will not benefit from the increased separation distance between their wells and onsite wastewater systems.

**Statement of Rationale:**

The Department amended this regulation in the interest of consistency with the requirements for the separation between private wells and onsite wastewater systems listed in R.61-56, Onsite Wastewater Systems, and to provide clarification regarding applicability of the regulation to injection wells as specified in R.61-87, Underground Injection Control Regulations.