

PERMIT REQUIREMENTS FOR DEVELOPMENT  
OF  
ENERGY AND OTHER SELECTED NATURAL RESOURCES  
FOR THE  
STATE OF SOUTH CAROLINA

PREPARED FOR  
COASTAL PLAINS REGIONAL COMMISSION  
AND THE  
U.S. GEOLOGICAL SURVEY

BY CLAUDE TERRY ASSOCIATES

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U.S. Geological Survey Open-File Report 81-1278

August 1981

#### ACKNOWLEDGEMENTS

The South Carolina Guide for the Development of Energy and other selected Natural Resources was prepared under direction of the U.S. Geological Survey (USGS), administered by the Coastal Plains Regional Commission (CPRC). The Guide was funded by the USGS Environmental Affairs Office (EAO) as part of a national program.

Wilbert J. Ulman and James Frederick of the USGS Resource Planning and Analysis Office (RPAO) served as Program Manager and Project Coordinator, respectively. Both the EAO and RPAO are under the Office of Earth Sciences Applications. McIver Watson and Richard Poythress served as Project Managers for the CPRC.

Patricia Jerman, Governor's Office, Natural Resources, served as the State Representative and provided needed assistance for completion of the Guide. Claude Terry and Associates, Inc. (CTA), of Atlanta, Georgia, was the contractor to the CPRC to produce Guides for the States of Virginia, North Carolina, South Carolina, Georgia, and Florida. CTA compiled the available information, wrote and produced the Guide, with Gregory Bourne serving as CTA Project Manager.

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U.S. Geological Survey  
Environmental Affairs Office  
760 National Center  
Reston, Virginia 22092

#### PUBLICATION AVAILABILITY

This South Carolina Permit Guide is available as an Open-File Report #81-1278 from:

U.S. Geological Survey  
Open-File Services Section  
Branch of Distribution  
Box 25425  
Denver Federal Center  
Denver, Colorado 80225

STATE PERMIT REQUIREMENTS FOR DEVELOPMENT OF  
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December 1981

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# INTRODUCTION

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## 1.0 INTRODUCTION

This Guide has been produced to compile and summarize the statutes, regulations, and permitting processes of the State of South Carolina pertaining to environmental and land use elements. It is designed to assist government officials, administrators, business and industry, and citizens in understanding the state regulations and their application. The guide also indicates the relationship between certain state and federal regulations as well as the interrelationships between regulations and environmental/land use elements.

Table 1 is a matrix listing the state regulations and the environmental/land use elements they impact. The major area emphasized by the regulation is indicated by an X, associated areas by asterisks.

All state agencies having jurisdiction over the permits, licenses, and approvals described in this guidebook helped to prepare it, and they reviewed the final draft of each summary for accuracy and completeness. Users of this guidebook should be aware, however, that changes in the laws, rules and regulations, or regulatory personnel since the guidebook was published may cause significant changes in permit requirements.

The guidebook should not be construed as a legal document or a final authority on permits for the State of South Carolina: it is not intended to be a comprehensive reference to the specific requirements of each permit, but to provide concise, easy-to-use information on the state regulations that govern the development of natural resources. Before attempting to obtain a permit or begin any activity that might require a permit, you should contact the appropriate state agency for further details.

The guide provides a thorough overview of state regulatory and permitting processes in a format that provides information in outline form, based on the major components of regulations. Table 2 describes the format and information contained.

The objective of this guide is to describe state statutes and regulations. However, many of these are based on federal regulations or guidelines. This document does not attempt to provide an exhaustive list of the federal regulations which impact the environmental/land use elements addressed. Rather, the primary federal regulations which serve as a basis or provide guidelines for state legislation are listed under the appropriate elements. When dual permits, i.e., permits required by both federal and state legislation, are necessary, it will be noted in the text. It should be recognized that other federal statutes may also affect a particular element. The main purpose of this document, however, is to describe state permitting policies and requirements.

Table 1. Applicability of State Laws and Regulations to Environmental/Land Use Elements.

Environmental/ Land Use Element	Air Quality	Water Quality	Water Supply	Solid Waste	Hazardous Waste	Noise Regulations	Energy Resources	Metalliferous Mining	Construction Materials	Phosphate Mining	Major Facility	Land Use	Floodplain	Coastal Zone	Public Land and Water	Wetlands	Endangered Species	Archeological & Historical	Heritage Trust Programs	Submerged Antiquities	Wild & Scenic Rivers	Substate Planning District	
State Law and Regulation	3.1	3.2	3.3	3.4	3.5	3.6	4.1	4.2	4.3	4.4	5.1	5.2	5.3	5.4	5.5	6.1	6.2	6.3	6.4	6.5	6.6	7.1	
Pollution Control Act Air Pollution Control Regulations & Standards	X				*						*												
Pollution Control Act NPDES Permits		X									*	*	*	*	*	*	*						
Pollution Control Act State Wastewater Treatment Facility Construction Permits		X										*	*	*	*	*	*						
Pollution Control Act 401 Certificates		X									*			*	*	*	*						
Pollution Control Act Terminal Facility Response to Oil Spills		X												*	*	*	*						
Safe Drinking Water Act Primary Drinking Water Regulations			X																				
Groundwater Use Act Groundwater Use in a Capacity Use Area			X											*									
Scenic Rivers Act Procedures for the Administration of S.C. Scenic Rivers System		*																				X	
General Public Health Statute Minimum Standards for Sanitary Land-fill Design, Construction & Operation		*		X																			
Pollution Control Act Minimum Standards for Industrial Solid Waste Disposal Sites and Facilities	*	*		X																			
Pollution Control Act Milled or Shredded Refuse Disposal Sites		*		X																			
Hazardous Waste Management Act Hazardous Waste Management Regulations	*	*			X																		

X—Primary Applicability

\*—Secondary Applicability



Table 1. Applicability of State Laws and Regulations to Environmental/Land Use Elements.

Environmental/ Land Use Element	Air Quality	Water Quality	Water Supply	Solid Waste	Hazardous Waste	Noise Regulations	Energy Resources	Metalliferous Mining	Construction Materials	Phosphate Mining	Major Facility	Land Use	Floodplain	Coastal Zone	Public Land and Water	Wetlands	Endangered Species	Archeological & Historical	Heritage Trust Programs	Submerged Antiquities	Wild & Scenic Rivers	Substate Planning District	
State Law and Regulation	3.1	3.2	3.3	3.4	3.5	3.6	4.1	4.2	4.3	4.4	5.1	5.2	5.3	5.4	5.5	6.1	6.2	6.3	6.4	6.5	6.6	7.1	
Atomic Energy and Radiation Control Act Radioactive Materials Regulations					X																		
Atomic Energy and Radiation Control Act Transportation of Radioactive Wastes					X																		
Oil and Gas Act No Regulations Promulgated Yet		*					X							*	*	*	*						
Mining Act Mining Act Regulations		*						X	X	X		*	*	*	*	*	*						
Minerals and Mineral Interests in Public Lands Act No Regulations Promulgated		*								X			*	*	*	*	*						
Utility Facility Siting and Environmental Protection Act	*	*									X	*	*	*		*							
Coastal Zone Management Act Rules and Regulations of the S.C. Coastal Council		X							*			*	X	X	X	X	X	*					
Public Land and Water Resource Usage Permits for Construction in Navigable Waters		*											*	*	X	*	*						
Nongame and Endangered Species Conservation Act-Nongame & Endangered Species Lists; Scientific Collecting Permit																	X		*				
Heritage Trust Program Act Heritage Trust Program Regulations															*		X	X	X				
Control of Certain Salvage Operations Uniform Rules and Regulations																				X			
Substate Planning Organization and Land Use Controls												X	*	*		*	*	*					X

X—Primary Applicability

\*—Secondary Applicability

## Table 2. Regulatory Guide Format.

### INTRODUCTION

This section provides information regarding the legislative origin of particular programs along with a statement concerning the intent, purpose or policy of the program.

### AUTHORIZING STATUTE(S)

#### I. FEDERAL

The title and numerical citation of applicable federal legislation is provided in this section.

#### II. STATE

The title and numerical citation of applicable state legislation is provided in this section.

### TITLE OF REGULATION

Specific state regulations pertaining to a particular topic area are cited by title and administrative code number.

### ADMINISTERING AGENCY

The state agency responsible for administering a particular program or implementing certain regulations is specified here. This agency will be the primary contact for applicants seeking more detailed information concerning a particular permitting program. In the case of federal/state dual permitting programs, information concerning the relevant federal agency is provided.

### SUMMARY OF REGULATION

#### I. APPLICABILITY

This section lists the types of activities and/or localities which are subject to the general provisions of a permitting program or specific regulations.

#### II. REGULATORY REQUIREMENTS

The specific activities which are directly regulated by a permitting program and/or sets of regulations are summarized in this section. Included is a consideration of activities that are subject to specific criteria and standards as well as a listing of activities that are expressly prohibited by laws and regulations.

#### III. PERMIT REQUIREMENTS

This section details the procedures established for the granting of specific permits. Included is a discussion of:

1. Time Requirements
2. Applications/Information required

Table 2. Continued

3. Agency review and processing procedures, including public hearings
4. Reporting/Monitoring requirements
5. Application fees
6. Appeal process
7. Enforcement and penalties
8. Additional procedures (variances, exemption, emergency orders, etc.)

**STATE POLICY AND PROCEDURES  
FOR CONSOLIDATED PERMIT PROGRAM**

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## 2.1 State Clearinghouse

### INTRODUCTION

The purpose of the A-95 review process is to coordinate and streamline permitting processes by providing a centralized proposal reviewing agency. This is intended to eliminate duplication, to ensure proposals' compatibility with ongoing state programs, and to mediate interagency conflicts.

### AUTHORIZING STATUTE(S)

#### I. FEDERAL

The A-95 process is required by the provisions of U.S. Office of Management and Budget Circular A-95, as promulgated through the authority of the Demonstration Cities and Metropolitan Development Act of 1966, Section 204; and Title IV of the Intergovernmental Cooperation Act of 1968.

#### II. STATE

South Carolina has not established a basis in state law for the A-95 process but instead operates according to federal law.

### TITLE OF REGULATION

None promulgated at the state level. Federal guidelines are used instead.

### ADMINISTERING AGENCY

State Clearinghouse  
Grants Services Division  
Office of the State Auditor  
S.C. Budget and Control Board  
P.O. Box 11333  
Columbia, S.C. 29211  
803/758-7707

### SUMMARY OF REGULATION

#### I. APPLICABILITY

OMB Circular A-95 is divided into four parts describing four types of coverage.

##### Part I. Project Notification and Review System (PNRS)

The PNRS deals with the state and areawide review of proposed applications for assistance from selected federal programs. The Catalog of Domestic Federal Assistance identifies approximately 200 federal programs that are subject to the PNRS. The PNRS requires that state and areawide clearinghouses be provided an opportunity to review and comment on proposed projects before the federal agency considers funding.

##### Part II. Direct Federal Development

Direct Federal Development directs federal agencies undertaking federal development projects to consult with state and local governments that

might be affected by the projects.

#### Part III. State Plan.

The State Plan provides for clearinghouse review and gubernatorial approval of state plans required under certain federal formula-grant programs. The Catalog of Domestic Federal Assistance identifies approximately 80 such programs.

#### Part IV. Coordinating of Planning in Multi-Jurisdictional Areas.

This promotes coordination of federally assisted planning at the substate level. OMB Circular A-95 encourages governors of each state to establish multi-jurisdictional clearinghouses to coordinate A-95 reviews within their respective planning districts.

### II. REGULATORY REQUIREMENTS

Requests for federal funding must be submitted to the Grants Services Division for approval prior to submission to the federal agency.

### III. PERMIT REQUIREMENTS

#### Time Requirements:

All notifications should be submitted no later than 60-90 days prior to the date upon which an application for federal assistance is to be submitted to a federal agency.

#### Forms Required:

Notification of Intent to apply for federal aid is to be made by submitting a completed Federal Assistance Multipurpose Factsheet (Standard Form 424). Copies of the application should be submitted to both the state and areawide clearinghouses. The areawide clearinghouse will thereafter distribute copies to affected local governments as appropriate.

#### Hearings:

No formal public hearings are held but an "A-95 Conference" may be held to bring interested parties, including private groups and citizens, together to discuss issues.

#### Review and Processing:

Copies of the project proposal will be circulated for review and comment to all interested state, areawide, and metropolitan clearinghouses.

If in the review process no adverse comments are received, the state clearinghouse will notify the applicant within 30 days that it may transmit a formal application to the federal agency. Should problems arise or if more information is needed, the state clearinghouse will have the option of requesting copies of the full application when it is completed. The clearinghouse will then have an additional 30 days after receiving the full application to complete the review and transmit comments to the applicant.

The applicant is responsible for including all letters of approval, comments or conditions that result from the review process in the full application to the federal agency.

Reporting/Monitoring:

N/A

Appeal Process:

If the applicant disagrees with the comments submitted by the clearinghouse, it has several options including (1) requesting a conference with the reviewer for the purpose of discussing his comments; (2) writing a response to the clearinghouse and sending copies to the federal agency along with the clearinghouse comments; (3) revising the application in response to the comments received.

Exemptions:

Certain types of activities are exempt from A-95 review. Applicants should contact the state or appropriate regional clearinghouse for the latest listing of exempt programs.

## **2.2 State Environmental Policy Statutes**

South Carolina has not passed a statute which corresponds on the state level to the National Environmental Policy Act. There is no requirement that an environmental assessment be prepared for 1) major state actions when no federal funding is involved or 2) developments of regional impact where no federal funding is involved.

South Carolina does not have a single comprehensive environmental review process. Rather than "Consolidated Permitting" or "One Stop Shopping" as is found in certain other Southeastern states, South Carolina Department of Health and Environmental Control (DHEC) refers to its process as "Coordinated Permitting" (Charles Jeter, personal communication, 1981). It incorporates its review into the regulatory procedures established pursuant to the Pollution Control Act of 1971 (S.C. Code of Laws, 1976, Title 48, Chapter 1).

DHEC has developed a program to review applications requiring a state permit from that agency. These permits are described in detail in Section 3.0 Environmental Quality Management. The program includes meetings between DHEC Bureau and Division heads and representatives of other state agencies to ensure that regulatory requirements are met by the applicant.



# ENVIRONMENTAL QUALITY MANAGEMENT

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### **3.0 Environmental Quality Management**

Environmental quality management pertains primarily to air quality, water quality and the management of solid and hazardous waste. In South Carolina, environmental quality management is the responsibility of the Department of Health and Environmental Control (DHEC). This agency has adopted specific regulations and has instituted a variety of permit programs to implement environmental policies mandated by state and federal statutes.

### 3.1 Air Quality

#### INTRODUCTION

The Pollution Control Act declares that it is the policy of the state to maintain reasonable standards of purity of the air and water resources consistent with the public health, safety and welfare; maximum employment; industrial development; the propagation and protection of terrestrial and marine flora and fauna; and the protection of physical property and other resources. The SC Department of Health and Environmental Control (DHEC) is given the authority to abate, control, and prevent pollution so as to attain and maintain National Ambient Air Quality Standards. South Carolina has received full delegation of the federal program, although EPA Region IV has final review responsibility for permits.

#### AUTHORIZING STATUTE(S)

##### I. FEDERAL

Clean Air Act of 1970, as amended (P.L. 95-95)

##### II. STATE

South Carolina Pollution Control Act of 1970 (S. C. Code of Laws, 1976, Title 48, Chapter 1)

#### TITLE OF REGULATION

Air Pollution Control Regulations and Standards. R. 61-62.

#### ADMINISTERING AGENCY

Bureau of Air Quality Control  
Department of Health and Environmental Control  
2600 Bull Street  
Columbia, SC 29201  
803/758-5406

#### SUMMARY OF REGULATION FOR CONSTRUCTION AND OPERATING PERMIT

##### I. APPLICABILITY

Permits are required for existing, new or altered sources. Any person who plans to construct, alter, or add to a stationary source of air contaminants, including the installation of any device for the control of air contaminant discharges, must first obtain a construction permit.

Any person who plans to place into operation a new source of air contaminants, including any device for the control of air contaminant discharges, must obtain an operating permit. No permit shall be issued for operations which result in levels in excess of national or state ambient air quality standards, although a special temporary operating permit may be granted pending installation of control equipment or modification of existing sources.

The construction permit application contains the information necessary to grant an operating permit at the appropriate time. The regulations also provide for amending or revoking permits if the operator fails to comply with the requirements of the permit.

## II. REGULATORY REQUIREMENTS

The air pollution control regulations are subdivided into the following program areas:

1. Permit requirements for stationary sources (construction and operation);
2. Prohibition of open burning;
3. Air pollution episodes: forecast, watch, alert, emergency and termination;
4. Hazardous air pollution conditions;
5. Air pollution control standards including:
  - a. emissions from fuel burning operations;
  - b. ambient air quality standards;
  - c. emissions from incinerators;
  - d. emissions from process industries;
  - e. volatile organic compounds;
6. Prevention of significant deterioration;
7. Control of fugitive particulate matter; and
8. Alternate emission reduction option.

## III. PERMIT REQUIREMENTS

### Time Requirements:

The processing of a construction permit application ranges between 30 and 180 days, depending on the complexity of the source of emissions and federal involvement. A request for an operating permit must be submitted in writing no later than 15 days prior to placing any new, increased, or altered source into operation, and no later than 60 days prior to the expiration date for a source already possessing a valid operating permit.

### Application/Information Required:

Construction permit applications must contain:

1. The name and location of the facility and its planned operating schedules;
2. Sufficient description, including physical and chemical properties, of materials and processes necessary for the Department to determine actual and potential emissions;
3. Identification of all emission points;
4. A description, including physical and chemical properties of all emissions;
5. A complete description including engineering design and operating characteristics of any air pollution control device or system that is to be installed; and

6. Other information as may be necessary for proper evaluation of the proposed source as determined by the Department.

#### Review and Processing:

After a complete construction permit application is received, DHEC completes a detailed review. Dispersion calculations are made and general pollution parameters checked. Recommendations are made by the Permit Section to the Engineering Services Division Director.

Upon receipt of a request for an operating permit, the applicant's file is checked and final compliance procedures are documented.

General reviews are confined to the Air Quality Bureau but the Division of Solid and Hazardous Waste Management is brought in where appropriate.

During the 30-day federal comment period, any person may request a public hearing.

All permits shall contain, in addition to such special conditions as the Department finds appropriate, the following standard conditions:

1. No applicable law, regulation, or standard will be contravened;
2. All official correspondence, plans, permit application forms, and written statements are an integral part of the permit; and
3. Any malfunction of an air pollution control equipment or system, process upset, or other equipment failure which results in greater discharges of air contaminants than were described for normal operation in the permit application shall be reported to the Department within 24 hours after the beginning of the occurrence and a written report submitted to the Department within 30 days.

#### Reporting and Monitoring:

If standards are violated due to an equipment malfunction, a written report shall include, as a minimum, the following:

1. The identity of the stack and/or emission point where the excess emissions occurred;
2. The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculations used in determining the magnitude of the excess emissions;
3. The time and duration of the excess emissions;
4. The identity of the equipment causing the excess emission;
5. The nature and cause of such excess emissions;
6. The steps taken to remedy the malfunction and the steps taken or planned to prevent the recurrence of such malfunction;
7. The steps taken to limit the excess emissions; and

8. Documentation that the air pollution control equipment, process equipment, or processes were at all times maintained and operated, to the maximum extent practicable, in a manner consistent with good practice for minimizing emissions.

Fees:

None

Appeal Process:

If a permit is denied, an internal administrative hearing chaired by a third party may be held. Its decision may be appealed to the Board of Health and Environmental Control. Thereafter, an appeal may be made to the Court of Common Pleas.

## 3.2 Water Quality Standards and Regulations

The South Carolina Department of Health and Environmental Control (DHEC) is responsible for water pollution control. The South Carolina Pollution Control Act spells out the duties and responsibilities of the department. The purpose of the Act is stated as follows:

It is declared to be the public policy of the State to maintain reasonable standards of purity of the air and reasonable water resources of the State, consistent with the public health, safety and welfare of its citizens, maximum employment, the industrial development of the State, the propagation and protection of terrestrial and marine flora and fauna, and the protection of physical property and other resources.

Basically, the water pollution control mission can be stated as (1) protection and enhancement of the waters of the State and (2) insuring that all dischargers have proper wastewater treatment systems, meet discharge limits, and operate and maintain such systems in an appropriate manner.

DHEC has responsibility for the nine major control programs described below:

### 1. Water Classification Standards System

The S. C. Pollution Control Act requires that DHEC classify the waters of the State and adopt standards of quality that will protect the designated uses. This is accomplished through the adoption of the S. C. Water Classification Standards System. This document provides seven use classifications and both the general and specific criteria of standards of quality necessary to protect the designated uses. An accompanying document, Stream Classifications for the State of South Carolina, lists the streams of the State and their classifications.

### 2. NPDES Permit Program

The U. S. Environmental Protection Agency (EPA) has delegated to DHEC the authority to administer the National Pollutant Discharge Elimination System (NPDES) permit program. This permit insures that all dischargers to waters of the State meet treatment technology and any more restrictive water quality considerations. All dischargers must have a permit. The permits include specific discharge limitations, construction implementation schedules where applicable, and requirements for self-monitoring and reporting to DHEC the quantity and quality of the discharge.

### 3. State Construction Permit Program

The basic purpose of this permit is to insure proper design and construction of all publicly and privately owned wastewater treatment systems. In effect, this program serves to control no-discharge systems (which do not require an NPDES permit) and pre-treatment plants (which, if they discharge to a publicly owned treatment plant, do not require an NPDES permit). In addition, this permit regulates wastewater treatment plants in the agricultural sector, especially concentrated animal handling operations: dairies, swine raising facilities, feedlots, and poultry production systems.

4. EPA 201 Municipal Construction Grants Program

Publically owned wastewater treatment and collection systems are eligible for at least 75 percent EPA grants for planning, engineering design, and construction. The administration of this program in South Carolina has largely been delegated by EPA to DHEC. The state develops a priority list for funding based on the severity of pollution problems and administers Steps I, II, and III of the program.

Table 1 shows the interrelationship between the programs dealing with wastewater facilities:

Table 1. Interrelationship of Wastewater Management Programs.

Treatment Plant Characteristics	State Permit Program	NPDES Permit Program	201 Grant Program Option
Privately owned, no discharge	X		
Privately owned, with discharge to POTW*	X		
Privately owned, with discharge to surface waters	X	X	
Publicly owned, no discharge	X		X
Publicly owned, with discharge to surface waters	X	X	X

\*Publicly Owned Treatment Works

5. Monitoring

DHEC monitors state waters as well as wastewater discharges for compliance with discharge limits. The stream monitoring effort includes sample collection and chemical, physical, bacteriological, and biological analysis. A network of 670 sample stations has been established to insure statewide monitoring of water quality. These analyses cover a broad range of pollutants, including oxygen demanding materials, nutrients, toxic metals, and complex organics. There are also 46 biological trend monitoring stations at which the aquatic life in a body of water is evaluated. Special studies are done in cases of complaints or areas of particular environmental concern.

All wastewater discharges are sampled and analyzed for compliance with permit conditions. The frequency of this compliance monitoring is based on the significance of the discharge.

6. Enforcement

The enforcement program tracks all permit conditions to include implementation schedules and discharge characteristics to insure compliance. Illegal discharges, spills, adverse impacts such as fish kills, and any other violations of water pollution control legislation are subject to enforcement action. Enforcement actions include issuance of a Notice of Violation, a letter documenting the violation and requiring the



discharger to indicate steps to achieve compliance. A "Show Cause Conference" can be held in more serious cases, or when a discharger fails to respond, or if the response to a Notice of Violation is unsatisfactory. Administrative Orders can be issued by the DHEC Commissioner establishing times and conditions by which a violator will achieve compliance, and where appropriate, levying penalties provided for by law. Additionally, the Board of Health and Environmental Control can request the Attorney General to initiate such civil and criminal action as appropriate.

7. Pollution Spill Response Program

DHEC requires a registration certificate for owners and operators of offshore and onshore terminal facilities to assess their capability to respond to spills of oil, gasoline, and related substances. In addition, DHEC has emergency response teams on call 24 hours a day, seven days a week. The teams are set up to respond to spills of oil or hazardous materials, fish kills, or other environmental emergencies. Members of the teams are specially trained to minimize adverse environmental impacts.

8. EPA 401 Water Quality Certification

The Environmental Analysis Division of DHEC is responsible for issuing Water Quality Certifications under Section 401 of the Clean Water Act on all projects requiring federal permits or license to construct or operate facilities which may result in any discharge into navigable waters. This Certification assures that the proposed activity will comply with the applicable provisions of Section 301, 302, 303, 306, and 307 of the Clean Water Act. Permits and licenses covered under this review include those issued by the U. S. Nuclear Regulatory Commission, Federal Energy Regulatory Commission, The U. S. Environmental Protection Agency, the U.S. Coast Guard, and the U. S. Army Corps of Engineers. (Although not required by law, the South Carolina Coastal Council has requested that a water quality determination be made as input to their decision making process.)

9. Water Quality Management Planning

Since the passage of the Federal Clean Water Act in 1972, DHEC has been responsible for preparing several planning documents in accordance with Sections 303(e) and 208 of the Act. Section 303(e) requires the development of a continuing planning process to develop water quality management plans for all navigable waters of the state. Water quality management plans have been developed for four river basins in South Carolina: the Savannah, the Edisto Combahee, the Santee Cooper, and the Pee Dee. These plans include an assessment of the water quality of each basin and recommended waste load allocations for significant point sources of pollutants.

The 208 planning process requires assessment of non-point source pollution problems as well as point source problems, ranking of problem areas, designation of agencies for management of non-point and point sources, identification of agencies to receive EPA grants for construction of public waste treatment facilities, and other activities. One portion of the overall state 208 water quality management plan is the non-point source (NPS) plan. Lead agencies with existing expertise and responsibilities addressed non-point pollution from agriculture, mining, construction, hydrologic modifications, silviculture, ground water, and residual waste.

Only the NPDES program, 401 Water Quality Certificate Program, State Construction Permit Program, and Terminal Facilities Response Assessment program require permits. These programs are described individually in this chapter.

### 3.2.1 NPDES Permits

#### INTRODUCTION

The National Pollutant Discharge Elimination System (NPDES) permit program has been delegated by EPA to DHEC as described previously.

#### AUTHORIZING STATUTE(S)

##### I. FEDERAL

Federal Water Pollution Control Act of 1972 (P.L. 92-500) as amended by the Clean Water Act of 1977 (P.L. 95-217)

##### II. STATE

South Carolina Pollution Control Act (S.C. Code of Laws, 1976, Title 48, Chapter 1).

#### TITLE OF REGULATION

South Carolina Regulations, Section 1(8), 1(27), 1(37), 1(38); 2(1); and 4.

#### ADMINISTERING AGENCY

Division of Enforcement and NPDES Administration  
Bureau of Wastewater and Stream Control  
Department of Health and Environmental Control  
2600 Bull Street  
Columbia, S.C. 29201  
803/758-3877

#### SUMMARY OF REGULATION

##### I. APPLICABILITY

Any industry or municipality proposing to construct a new facility or modify an existing facility which discharges wastes into the waters of South Carolina must obtain a permit to do so.

##### II. REGULATORY REQUIREMENTS

The permit application fully describes the treatment plant and discharge and includes specific engineering studies, water quality studies and a limited environmental assessment. DHEC then attaches proposed effluent limitations, a schedule of compliance, and any other monitoring and enforcement requirements. The total package is reviewed by relevant agencies and the public prior to approval or disapproval. EPA has final approval.

##### III. PERMIT REQUIREMENTS

###### Time Requirements:

The application must be filed with DHEC at least 180 days prior to commencement of the discharge.

###### Review and Processing:

1. Preliminary Conference. The applicant meets with various state permitting agencies to gain a comprehensive understanding of

regulatory requirements.

2. Public Notice and Public Hearings: After the complete application is received, a public notice is placed in a newspaper of general circulation in the area of the proposed discharge. Comments are accepted for 30 days after the public notice. A public hearing may be requested by the applicant, EPA, any public agency, or any interested affected private party. A hearing notice must be given 30 days prior to the hearing.

DHEC coordinates review among internal bureaus as well as interested external agencies.

Reporting/Monitoring:

A self-monitoring program and schedule of compliance are included in the permit. Report contents and their frequency are specified. Periodic inspections are made by the DHEC Bureau of Analytic and Biologic Services.

Fees:

None

Appeal Process:

Initially to the Board of Health and Environmental Control; thereafter to the Court of Common Pleas.

Enforcement:

The following enforcement actions follow as necessary from noncompliance with NPDES permit conditions:

1. Phone call and follow-up memo.
2. Notice of Violation. This letter documents violations and requires a response from the violator outlining steps to achieve compliance.
3. Show-Cause Conference or Hearing. This meeting is held if the response to the notice of violation is unsatisfactory. The outcome may be:
  - a. Administrative Orders. A consent order is signed by both parties. Monetary penalties may be included.
  - b. Adjudicatory Hearing. The Board of Health and Environmental Control will designate an individual to hear the matter and determine if a formal hearing is warranted.
  - c. Referral to the State Attorney General for civil or criminal judicial action. Criminal penalties may amount to fines of not less than \$500 or more than \$25,000 for each day's violation or imprisonment for not more than two years or both. Civil penalties may result in fines not to exceed \$10,000 per day of violation.
  - d. Request for a Warrant for a Nuisance Violation. DHEC may request a local magistrate to issue an arrest warrant in cases where an imminent health hazard exists and immediate action is necessary.

### 3.2.2 State Construction Permits

#### INTRODUCTION

The purpose of this permit is to insure proper design and construction of all publicly and privately owned wastewater treatment systems.

#### AUTHORIZING STATUTE(S)

I. FEDERAL  
N/A

II. STATE  
South Carolina Pollution Control Act (S. C. Code of Laws, 1976, Title 48, Chapter 1).

#### TITLE OF REGULATION

Preparation and Submission of Engineering Reports and Environmental Impact Statements; Regulation PC-W-1.

#### ADMINISTERING AGENCY

Domestic Wastewater Division or Industrial/Agricultural Wastewater Division  
Bureau of Wastewater and Stream Quality Control  
Department of Health and Environmental Control  
2600 Bull Street  
Columbia, S C 29201  
803/758-5067 or 803/758-5481 (respectively)

#### SUMMARY OF REGULATION

##### I. APPLICABILITY

The permit requirement extends to any person discharging or intending to discharge sewage, industrial waste, and/or other wastes into the waters of the state; any person intending to increase the quantity of sewage, industrial wastes, and/or other wastes which are being discharged to such waters on the effective date of this regulation; or any person intending to construct a new outlet, or build, add to, or alter any treatment works for the handling of sewage, industrial wastes, and/or other wastes.

##### II. REGULATORY REQUIREMENTS

A construction permit from DHEC is required for any publicly or privately owned wastewater treatment system.

##### III. PERMIT REQUIREMENTS

###### Time Requirements:

DHEC tries to process applications in 30 days.

###### Application/Information Required:

The application must contain a comprehensive description of the proposed project (collection, transmission, treatment units, disposal system,

flow diagram, administrative and legal aspects). Other requirements include a description of the waste, its sources, its characteristics, treatability, location of discharge point, physical characteristics of proposed site, receiving waters, and maintenance plan.

Review and Processing:

This is an internal activity except for coordination with the S. C. Coastal Council concerning projects in the eight coastal counties.

No public hearings are called for in the regulations or have been requested in practice.

Reporting/Monitoring:

Water quality reports are required only of those applicants who do not require an NPDES permit, i.e., those applicants not using surface discharge disposal methods.

Fees:

None

Appeal Process:

Initially, Board of Health and Environmental Control; thereafter, the Court of Common Pleas.

Enforcement:

All facilities are inspected by DHEC District Engineers once during construction and at the completion of construction. For those applicants who must furnish water quality monitoring data, enforcement procedures are the same as for NPDES permit holders (see Chapter 3.2.1).

### 3.2.3 401 Certificates

#### INTRODUCTION

DHEC is responsible for the certification on all projects requiring federal licenses or permits. This certification states that the project will meet state water quality standards. Examples of the type projects involved would include those needing Coast Guard or Corps of Engineer permits, Nuclear Regulatory Commission licenses, and Federal Energy Regulatory Commission licenses.

#### AUTHORIZING STATUTE(S)

##### I. FEDERAL

Federal Water Pollution Control Act of 1972 (P.L. 92-500) as amended by the Clean Water Act of 1977 (P.L. 95-217)

##### II. STATE

South Carolina Pollution Control Act (S. C. Code of Laws, 1976, Title 48, Chapter 1).

#### TITLE OF REGULATION

No formal regulations have been promulgated. Internal administrative procedures are followed in carrying out the program.

#### ADMINISTERING AGENCY

Environmental Analysis Division  
Bureau of Wastewater and Stream Quality Control  
Dept. of Health and Environmental Control  
2600 Bull Street  
Columbia, S.C. 29201  
803/758-5496

#### SUMMARY OF REGULATION

##### I. APPLICABILITY

The certifications insure that the applicant meets appropriate treatment technology requirements, water quality considerations, and toxic and hazardous material control requirements under state and federal statutes. Typical projects include such activities as dredge and fill operations, beach nourishment operations, dams, dikes, levees, causeways, artificial islands, property protection/reclamation devices, commercial piers, docks and wharves, marinas, platforms for industrial or commercial operations, outfall structures, submarine cables, and bridges.

##### II. REGULATORY REQUIREMENTS

A letter requesting certification together with a copy of the application submitted to the federal agency issuing the permit is required by DHEC. The Certification may be issued with such conditions as judged necessary by DHEC to assure compliance with the Clean Water Act.

### III. PERMIT REQUIREMENTS

Time Requirements:

DHEC must render a decision within 15 days of the close of the 30-day public notice period.

Review and Processing:

At the end of the public notice period, the Environmental Analysis Division considers input from other DHEC divisions, other state and federal agencies, and the public.

Hearings are held jointly with the federal agency with jurisdiction over the project, as necessary.

Reporting/Monitoring:

DHEC may attach reporting of water quality parameters as a condition of approving the certificate. Parameters and reporting frequency will vary with each project.

Fees:

None

Appeal Process:

Initially, to the Board of Health and Environmental Control; thereafter, to the Court of Common Pleas.

Enforcement:

This is the responsibility of the original federal agency.



### 3.2.4 Terminal Facility Registration

#### INTRODUCTION

DHEC is responsible for adopting and enforcing regulations relating to the cleanup and removal of discharges (spills) of pollutants into the waters or onto the coasts of the state.

#### AUTHORIZING STATUTE(S)

I. FEDERAL

N/A

II. STATE

Pollution Control Act amendment (S.C. Code of Laws, 1976, Title 48, Chapter 43)

#### TITLE OF REGULATION

Regulations have not been promulgated yet. The program is carried out according to internal administrative procedures.

#### ADMINISTERING AGENCY

Industrial and Agricultural Wastewater Division  
Dept. of Health and Environmental Control  
2600 Bull Street  
Columbia, S. C. 29201  
803/758-5483

#### SUMMARY OF REGULATION

I. APPLICABILITY

Regulations apply to the operation and inspection of terminal facilities and associated vessels, methods for reporting spills, development of contingency plans, creation of a State Emergency Response Team, and reporting of discharge potential by ships' captains as they enter South Carolina ports.

II. REGULATORY REQUIREMENTS

No person may operate a waterfront or offshore facility or pipeline without a registration certificate. A vessel engaged in ship-to-ship transfer or ship-to-shore transfer is also considered a terminal facility. The applicant must give evidence he has implemented state and federal plans and regulations for the prevention, control, and abatement of spills of oil, gasoline, pesticides, ammonia, chlorine, and derivatives thereof before receiving a certificate.

III. PERMIT REQUIREMENTS

Time Requirements:

DHEC generally processes an application within 30 days.

Application/Information Required:

Certificates are issued on a five-year basis to owners or operators of terminal facilities. The applicant must submit information addressing:

1. The barrel or other measurement capacity of the terminal facility.
2. All prevention, containment, and removal equipment, including, but not limited to, vehicles, vessels, pumps, skimmers, booms, chemicals, and communication devices to which the facility has access, whether through direct ownership or by contract or membership in an approved discharge cleanup organization.
3. The terms of agreement and operation plan of any discharge cleanup organization to which the owner or operator of the terminal facility belongs. Owners and operators must give evidence of financial responsibility in the sum of \$14 million by insurance, a surety bond, or other acceptable evidence.

Review and Processing:

Processing is coordinated mainly within DHEC with review and certification by the S. C. Coastal Council.

No public hearings are required.

Reporting/Monitoring:

None

Fees:

\$250.00 per facility per year

Appeal Process:

Initially, to the Board of Health and Environmental Control; thereafter, to the Court of Common Pleas.

Enforcement:

Terminal facilities are subject to annual inspections and registration will be suspended if the report is unsatisfactory. A violation may be punishable by a civil penalty up to \$10,000 per day per violation assessed by DHEC.

### **3.3 Public Water Supply**

The regulation of drinking water is largely the responsibility of the Department of Health and Environmental Control (DHEC) since the public purpose is to safeguard water quality and public health. The regulation of water quantity only pertains to groundwater, not surface water, and is the responsibility of the Water Resources Commission (WRC). Therefore, public water systems that use groundwater sources in capacity use areas must have permits from both DHEC and WRC.

### 3.3.1 Drinking Water

#### INTRODUCTION

The S. C. Department of Health and Environmental Control is responsible for protecting public health by regulating the provision of public drinking water. This is accomplished largely by using permits for all aspects of water supply systems and routine inspections of existing public water supplies.

#### AUTHORIZING STATUTE(S)

##### I. FEDERAL

Federal Safe Drinking Water Act of 1974 (P.L. 93-523)

##### II. STATE

South Carolina Safe Drinking Water Act of 1976 (S. C. Code of Laws, 1976, Title 44, Chapter 55).

#### TITLE OF REGULATION

State Primary Drinking Water Regulations (R.62-58)

#### ADMINISTERING AGENCY

Division of Water Supply  
Bureau of Special Environmental Programs  
Dept. of Health and Environmental Control  
2600 Bull Street  
Columbia, S. C. 29201  
803/758-5544

#### SUMMARY OF REGULATION

##### I. APPLICABILITY

These regulations apply to both community and non-community water supply systems, but a domestic well is exempt. Before construction, modification, or expansion of any public water supply, a construction permit must be obtained from DHEC.

##### II. REGULATORY REQUIREMENTS

An operator of the appropriate grade certified by the S. C. Board of Certification of Environmental Systems Operators must be on duty while the facility is in operation.

##### III. PERMIT REQUIREMENTS

###### Application/Information Required:

The application form includes information about service areas, types and number of customers, surface water sources, groundwater sources, water treatment plant, distribution systems, construction plans, technical specifications, design data, water quality (microbiological, physical,

chemical, and radiological characteristics), and sampling results.

Review and Processing:

Coordination with Coastal Council in coastal counties and with Water Resources Commission if groundwater is used in a capacity use area.

No public hearings are required unless a variance or exemption is requested.

Reporting/Monitoring:

Surface Water or Groundwater Supply Monthly Operation Report; Monthly Bacteriological Summary Analysis; Monthly Turbidity Summary Analysis; other reports which may be conditions of the permit.

Fees:

None

Appeal Process:

Initially, to the Board of Health and Environmental Control; thereafter, to the Court of Common Pleas.

Enforcement:

A final inspection of construction and approval by DHEC is required before operation may begin. Failure of a water supply system to meet standards as evidenced by monthly reports requires public notice and remedial actions. Permits will not be revoked without a public hearing, however. Civil and criminal proceedings may be initiated by DHEC and the S. C. Attorney General respectively.

### 3.3.2 Groundwater Use

#### INTRODUCTION

The S. C. Water Resources Commission, upon the request of a local political subdivision, may after suitable investigations and hearings, declare an area of the state to be a groundwater capacity use area. Such an area is one in which the aggregate demand for groundwater uses exceeds or threatens to exceed the available supply, and thus the resource requires management and coordination. The act focuses on quantity rather than quality considerations.

Once a capacity use area is delineated, the Water Resources Commission draws up a set of regulations tailored to the needs of groundwater management in that particular area. (A separate set of regulations is required for each new capacity use area.)

#### AUTHORIZING STATUTE(S)

I. FEDERAL  
N/A

II. STATE  
Groundwater Use Act of 1969 (S. C. Code of Laws, 1976, Title 49, Chapter 5)

#### TITLE OF REGULATION

Groundwater Use in the Waccamaw Capacity Use Area; (Groundwater use in the low country area)

#### ADMINISTERING AGENCY

Geology - Hydrology Division  
S. C. Water Resources Commission  
P. O. Box 4515  
(3838 Forest Drive)  
Columbia, S. C. 29204  
803/758-2514

#### SUMMARY OF REGULATION

##### I. APPLICABILITY

These regulations apply to all persons utilizing groundwater resources within a designated capacity use area.

##### II. REGULATORY REQUIREMENTS

In capacity use areas, no one may withdraw, obtain, or utilize groundwater in excess of 100,000 gallons per day unless first obtaining a Class A permit from the Water Resources Commission.

Persons requiring less than 100,000 gallons per day for other than domestic uses are declared a Class B user and may be required to protect against saltwater encroachment or adverse effects on other water users. Class B

users must submit a notice of intent to drill a well and submit a water well report form.

Persons drilling test, exploration or observation wells must obtain a permit from the Commission and supply basic information about the project.

A particular capacity use area's regulations might include:

1. Provisions requiring water users within the area to submit reports not more frequently than at 30-day intervals concerning quantity of water used or withdrawn, sources of water, and the nature of the use.
2. Provisions concerning the timing of withdrawals; provisions to protect against or abate saltwater encroachment; provisions to protect against or abate unreasonable adverse effects on other water users within the area, including but not limited to adverse effects on public use.
3. Provisions concerning well depth and spacing controls; and provisions establishing a range of prescribed pumping levels (elevations below which water may not be pumped) or maximum pumping rates, or both, in wells or for the aquifer or for any part thereof based on the capacities and characteristics of the aquifer.
4. Such other provisions not inconsistent with the act as the Commission finds necessary to implement the purposes of the act.

### III. PERMIT REQUIREMENTS

#### Time Requirements:

After an application is submitted, a recommended preconstruction conference may be requested by the applicant. The Commission will act on a completed application within 60 days.

#### Application/Information Required:

Information on the application includes well location(s), amount of water use, adverse impacts on other water uses or users, aquifers affected, location of abandoned wells, identification of beneficial water uses, consumptive and non-consumptive uses, all aspects of the return of non-consumptive water, and well construction data.

#### Review and Processing:

Review is made within the Commission, but coordination is required with other state agencies if project purposes include public drinking water or mining.

Permits for non-consumptive use will be issued without a hearing, assuming no unreasonable adverse impacts are anticipated. Hearings on permits for consumptive uses may be held upon the request of water users, the Commission, or interested parties within 15 days of issuance of the Commission's notice to issue a permit. The hearing must take place within 30 days thereafter.

Permits contain conditions which protect groundwater against saltwater encroachment and unreasonable adverse effects on other water users.

Reporting/Monitoring:

Quarterly water use reports (use of the water, quantity, hours of operation, water level measurements in wells, amount of water returned).

Fees:

None.

Appeal Process:

Initially, to the Water Resources Commission; thereafter, to the Court of Common Pleas.

Enforcement:

Any person violating any provision of the Act shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than \$100.00 nor more than \$1,000.00 for each violation. If any person is adjudged to have committed such violation willfully, the court may determine that each day during which such violation continued constitutes a separate offense.

In addition, upon violation of any provision of the Act or the regulations of the Commission, the executive director may, either before or after the institution of criminal proceedings, institute a civil action in the circuit court in the name of the state for injunctive relief.



### **3.4 Solid Waste Management**

The S.C. Department of Health and Environmental Control is responsible for regulating the handling and disposal of solid waste. The statutory basis for such activities is the general body of health laws and the Pollution Control Act.

The state prohibits the operation of open dumps and encourages local jurisdictions to develop joint waste handling capabilities by means of the Solid Waste Facility - Resource Recovery Facilities Act (S.C. Code of Laws, 1976, Title 6, Chapter 16). The state regulates private franchised collectors (R. 61-60) and sets standards for closing and abandoning a solid waste disposal area (R. 61-61), sanitary landfills (R. 61-70), industrial solid waste disposal facilities (R. 61-66) and shredded or milled waste disposal sites (R. 61-59). The latter three programs require permits and are discussed in detail in further sections of this chapter.

DHEC is also authorized to conduct a continuous program of litter control throughout the state. The Litter Control Act (S.C. Code of Laws, 1976, Title 44, Chapter 67) is meant to supplement existing programs to coordinate litter handling and control open dumps.

### 3.4.1 Sanitary Landfills

#### INTRODUCTION

The Department of Health and Environmental Control (DHEC) is responsible for regulating the handling and disposal of garbage and refuse by setting minimum standards for sanitary landfill design, construction and operation.

#### AUTHORIZING STATUTE(S)

I. FEDERAL  
N/A

II. STATE  
General Public Health Statute (S.C. Code of Laws, 1976, Title 44, Chapter 1).

#### TITLE OF REGULATION

Regulations Requiring Minimum Standards for Sanitary Landfill Design, Construction, and Operation (R. 61-70).

#### ADMINISTERING AGENCY

Division of Solid and Hazardous Waste Management  
Bureau of Special Environmental Programs  
Dept. of Health and Environmental Control  
2600 Bull Street  
Columbia, S.C. 29201  
803/785-5681

#### SUMMARY OF REGULATION

##### I. APPLICABILITY

These regulations apply to all sanitary landfill sites within the state.

##### II. REGULATORY REQUIREMENTS

Beginning July 1, 1972, no system for land disposal of solid waste may be operated without a permit from DHEC. Wastes must be essentially inert materials that do not contribute to pollution problems, cause vector problems, or constitute public health nuisances.

Open dumps are prohibited. Hazardous and toxic wastes may not be disposed of in sanitary landfills. (See Chapter 3.5.)

Minimum standards cover site location requirements, site design, operational features and appurtenances, equipment, construction, operations, and inspection by DHEC.

##### III. PERMIT REQUIREMENTS

###### Time Requirements:

Thirty days, assuming a complete application.

Application/Information Required:

The request for a permit consists of a landfill plan and an engineering report including a map or aerial photo, plot plan, service area demographics, quantity and source of refuse, geologic foundations, groundwater elevation, soil characteristics and cover materials, observation test wells, and a leachate control plan.

Review and Processing:

DHEC conducts all processing internally.

No hearings are required on issuance of a permit.

Reporting/Monitoring:

None except for reporting of applicant's groundwater monitoring results.

Fees:

None.

Appeal Process:

Initially to the Board of Health and Environmental Control; thereafter to the Court of Common Pleas. Violations constitute a misdemeanor punishable by a fine of \$100 per day or imprisonment for 30 days.

Enforcement:

DHEC conducts routine inspections during the operations phase and a final inspection upon completion of the landfill.

### 3.4.2 Industrial Solid Waste Disposal

#### INTRODUCTION

DHEC is responsible for regulating the handling and disposal of industrial solid waste by setting minimum standards for landfills designed to accomodate non-burnable waste (cinders, fly ash, plaster, bricks, tile, crockery, native inorganic materials, and concrete), cellulosic materials, waste sludge and slurries, and putrescible waste. Hazardous wastes were covered by the Pollution Control Act prior to the passage of the Hazardous Waste Act (See Chapter 3.5).

#### AUTHORIZING STATUTE(S)

##### I. FEDERAL

N/A

##### II. STATE

South Carolina Pollution Control Act (S.C. Code of Laws, 1976, Title 48, Chapter 1).

#### TITLE OF REGULATION

Regulation Requiring Minimum Standards for Industrial Solid Waste Disposal Sites and Facilities (PC-SW-2) (R. 61-66).

#### ADMINISTERING AGENCY

Division of Solid and Hazardous Waste Management  
Bureau of Special Environmental Programs  
Dept. of Health and Environmental Control  
2600 Bull Street  
Columbia, S.C. 29201  
803/758-5681

#### SUMMARY OF REGULATION

##### I. APPLICABILITY

After July 1, 1972 a permit must be obtained to construct and/or operate an industrial waste disposal site.

##### II. REGULATORY REQUIREMENTS

Minimum submission requirements are listed for permits for earth burial of inert wastes, certain hazardous wastes, and cellulosic wastes, as well as for incinerators.

##### III. PERMIT REQUIREMENTS

###### Time Requirements:

Thirty days, assuming a complete application.

Application/Information Required:

Generally, data requirements include maps or aerial photos, a plot plan of the site, and a detailed engineering report addressing physical characteristics of the site, the wastes to be handled, monitoring wells, construction and operation, and procedures to close the site.

Review and Processing:

DHEC conducts all processing internally.

No hearings are required on the issuance of a permit.

Reporting/Monitoring:

None except for reporting of applicant's groundwater monitoring results.

Fees:

None.

Appeal Process:

Initially, to Board of Health and Environmental Control; thereafter, to the Court of Common Pleas.

Enforcement:

DHEC makes routine inspections during the operations phase and a final inspection upon completion of the landfill. A violation constitutes a misdemeanor punishable by a fine of \$100 per day and/or imprisonment for 30 days.

### 3.4.3 Shredded or Milled Refuse Disposal

#### INTRODUCTION

DHEC is responsible for regulating the handling and disposal of shredded and milled solid waste in putrescible or non-putrescible forms.

#### AUTHORIZING STATUTE(S)

##### I. FEDERAL

N/A

##### II. STATE

South Carolina Pollution Control Act (S.C. Code of Laws, 1976, Title 48, Chapter 1).

#### TITLE OF REGULATION

Rules and Regulations Governing Milled or Shredded Refuse Disposal Sites (R. 61-59).

#### ADMINISTERING AGENCY

Division of Solid and Hazardous Waste Management  
Bureau of Special Environmental Programs  
Dept. of Health and Environmental Control  
2600 Bull Street  
Columbia, S.C. 29201  
803/758-5681

#### SUMMARY OF REGULATION

##### I. APPLICABILITY

A permit must be obtained from DHEC to construct and operate a milled or shredded refuse site.

##### II. REGULATORY REQUIREMENTS

Ninety percent of the material by weight must be able to pass through a four-inch sieve.

##### III. PERMIT REQUIREMENTS

###### Time Requirements:

Thirty days assuming a complete application.

###### Application/Information Required:

The request for a permit consists of a map or aerial photo, a plot plan of the site, and an engineering report addressing site design, operational features and appurtenances, staffing, equipment, and construction.

###### Review and Procedures:

DHEC conducts all processing internally.

No hearings are required on the issuance of a permit.

Reporting/Monitoring:

None except for reporting applicant's groundwater monitoring results.

Fees:

None.

Appeal Process:

Initially to the Board of Health and Environmental Control; thereafter, to the Court of Common Pleas.

Enforcement:

DHEC makes routine inspections during the operations phase and a final inspection upon completion of the landfill. A violation constitutes a misdemeanor punishable by a fine of \$100 per day or imprisonment for 30 days.

### 3.5 Hazardous/Toxic Waste Management

The South Carolina Department of Health and Environmental Control (DHEC) is responsible for the regulation of hazardous waste, both nuclear and non-nuclear.

The S.C. Hazardous Waste Management Act defines hazardous waste to mean any waste of a solid, liquid, contained gaseous, or semi-solid state which may cause or significantly contribute to mortality and morbidity or pose a threat to the environment when improperly managed.

Such wastes may include, but are not limited to, those which are toxic, corrosive, flammable, irritants, strong sensitizers, persistent in nature, assimilated or concentrated in tissue, or which generate pressure through decomposition, heat or other means. The term does not include solid or dissolved materials 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 or the Pollution Control Act of South Carolina or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954.

The Hazardous Waste Act closely parallels the Federal Resource Conservation and Recovery Act but is more stringent in several areas:

1. The State requires a transportation permit.
2. The State lists a broader pH range.
3. The State lists additional hazardous materials, including waste oils.
4. The State receives copies of generators' manifests and matches them with receiver copies.
5. The State monitors wastes that are reclaimed, reused, or recycled.

The South Carolina Atomic Energy and Radiation Control Act of 1967 empowers DHEC to regulate all persons who receive, transfer, possess, use or require any radioactive materials. Radioactive materials are defined as "any material, solid, liquid, or gas, which emits radiation spontaneously." Regulation is accomplished by general or specific licenses.

Major amendments in 1980 address the transportation and disposal of radioactive wastes into and within the State. DHEC controls these activities by the issuance of permits and the requirements for evidence of financial responsibility.

Each permit/license system is discussed in detail in the remainder of this chapter.



### 3.5.1 Non-Nuclear Hazardous Waste Management

#### INTRODUCTION

DHEC is responsible for regulating the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes. A permitting process is DHEC's main means of control.

#### AUTHORIZING STATUTE(S)

##### I. FEDERAL

Resource Conservation and Recovery Act of 1976 (P.L. 94-580).

##### II. STATE

South Carolina Hazardous Waste Management Act (S.C. Code of Laws, 1976, Title 44, Chapter 56).

#### TITLE OF REGULATION

Hazardous Waste Management Regulations (March 31, 1980, amended January 21, 1981) (R. 61-79).

#### ADMINISTERING AGENCY

Division of Solid and Hazardous Waste Management  
Bureau of Special Environmental Programs  
Dept. of Health and Environmental Control  
2600 Bull Street  
Columbia, S.C. 29201  
803/758-5681

#### SUMMARY OF REGULATION

##### I. APPLICABILITY

No person may construct, substantially alter, or operate any hazardous waste treatment or disposal facility or site without a permit from DHEC. In addition, no person may store, transport, treat, or dispose of any hazardous waste without first obtaining a permit from DHEC. Emergency Hazardous Waste Facility Permits are available under certain conditions. DHEC may also grant an Experimental Hazardous Waste Facility Permit to a person engaged in technology-advancing activities within the state. A Temporary Hazardous Waste Facility Permit may be granted to a facility which cannot be modified or upgraded to meet all regulations. A Special Waste Facility Permit may be issued for facilities dealing solely with special wastes listed in R. 61-79.8M.

##### II. REGULATORY REQUIREMENTS

The regulations address the following program areas:

1. Criteria, identification, and listing of hazardous wastes;
2. Requirements that DHEC be notified of activities by generators, transporters, facility owners/operators;
3. Manifest system;
4. Spills reporting and clean-up;

5. Financial responsibility for accidents and final closures;
6. Requirements to be met by generators;
7. Requirements to be met by transporters;
8. Standards for treatment, storage, or disposal facilities;
9. Transporter permits;
10. Treatment, storage and disposal facility permits;
11. Interim standards for treatment, storage and disposal facilities.

### III. PERMIT REQUIREMENTS

#### Time Requirements:

90 days.

#### Review and Processing:

After reviewing a completed application, DHEC issues a denial or Notice of Proposed Issuance. In the latter case, DHEC will receive written comments for 30 days and possibly provide a public hearing. Comment and hearing input are considered, and thereafter DHEC issues or denies the permit.

DHEC may hold public hearings on permits for new activities, renewals, or modifications to existing permits if sufficient public interest is expressed. Thirty days public notice of a hearing is required.

If a permit is issued, the applicant must submit a written request for authorization to begin operations 30 days in advance of start-up.

#### Reporting /Monitoring:

These requirements are listed in the regulations and are conditions of the permit.

#### Fees:

None.

#### Appeal Process:

Initially, to the Board of Health and Environmental Control; thereafter, to the Court of Common Pleas.

#### Enforcement:

DHEC may revoke or suspend permits for violation of the Act or its regulations, misrepresentation of facts, failure to comply with DHEC orders, failure to comply with conditions of the permit, or other good cause.

### 3.5.2 Regulation of Radioactive Materials

#### INTRODUCTION

DHEC is responsible for regulating activities involving radioactive materials by means of a licensing system.

#### AUTHORIZING STATUTE(S)

I. FEDERAL  
N/A

II. STATE  
South Carolina Atomic Energy and Radiation Control Act of 1967 (S.C. Code of Laws, 1976, Title 13, Chapter 7).

#### TITLE OF REGULATION

Radioactive Materials (R. 61-63).

#### ADMINISTERING AGENCY

Bureau of Radiological Health  
Dept. of Health and Environmental Control  
2600 Bull Street  
Columbia, S.C. 29201  
803/758-5548

#### SUMMARY OF REGULATION

##### I. APPLICABILITY

No person may receive, use, possess, transfer, or dispose of radioactive material except as authorized by a general or specific license issued by DHEC. General licenses (blanket permissions) are effective without the filing of applications or issuing of licenses and come into being by virtue of certain activities being authorized by the Act alone. Situations where small amounts of radioactive materials (less than 15 pounds of source materials) are involved generally fall under general licenses as do activities involving depleted uranium and certain laboratory testing devices and procedures.

Specific licenses are required for certain medical applications, the human use of sealed sources, the manufacture and distribution of devices containing radioactive materials, the use of sealed sources in industrial radiography, the manufacture and distribution of radioactive materials under certain in vitro clinical or laboratory testing under a general license, the manufacture and distribution of radiopharmaceuticals for medical uses, the manufacture and distribution of reagent kits or generators for the preparation of radiopharmaceuticals, and the manufacture and distribution of sources or devices containing radioactive material for medical use.

## II. REGULATORY REQUIREMENTS

The regulations address licensing of radioactive materials, standards for protection against radiation, the use of sealed sources in the health professions and special requirements of industrial radiographic operations.

## III. PERMIT REQUIREMENTS

### Time Requirements:

Ranges from two weeks to two months.

### Application/Information Required:

Applications are made on forms furnished by DHEC which provide a full range of information about the use and handling of radioactive materials, waste disposal, and health and safety measures.

### Review and Processing:

Largely within DHEC but other state agencies are brought in as appropriate. Could include Nuclear Regulatory Commission.

A hearing may be held for major projects upon the advice of the Asst. Attorney General.

### Reporting/Monitoring:

Quarterly surveillance reports may be required as a condition of each license.

### Fees:

Annual license fee varies by type license. Generally \$75.

### Appeal Process:

None.

### Enforcement:

A routine inspection program is carried out. The schedule is based on a priority system of the degree of hazard involved.

### 3.5.3 Transportation of Radioactive Wastes

#### INTRODUCTION

DHEC is responsible for regulating the movement of radioactive wastes within the state. In-state destinations are the Barnwell Plant for low level wastes and the Savannah River Plant for high level spent fuel.

#### AUTHORIZING STATUTE(S)

I. FEDERAL  
N/A

II. STATE  
South Carolina Atomic Energy and Radiation Control Act amendments, also known as the South Carolina Radioactive Waste Transportation and Disposal Act (S.C. Code of Laws, 1976, Title 13, Chapter 13).

#### TITLE OF REGULATION

Transportation of Radioactive Waste into or within South Carolina (R. 61-83).

#### ADMINISTERING AGENCY

Bureau of Radiological Health  
Dept. of Health and Environmental Control  
2600 Bull Street  
Columbia, S.C. 29201  
803/758-5548

#### SUMMARY OF REGULATION

##### I. APPLICABILITY

These regulations apply to all persons who ship or transport radioactive wastes into or within the state of South Carolina.

##### II. REGULATORY REQUIREMENTS

A shipper must provide evidence of financial ability to protect the state and public at large from possible radiological injury due to packaging, transportation, disposal, storage, or delivery of radioactive waste.

The shipper must notify the State 72 hours in advance of a shipment. Information must include time, route, manifest form, vehicle inspection certification from S.C. Dept. of Transportation, and driver certification.

##### III. PERMIT REQUIREMENTS

###### Time Requirements:

Can be processed in one day if the application is complete.

###### Application/Information Required:

The application for a permit must include:

1. Identification of shipper and point of departure of wastes;
2. Assurance of disposal site acceptance; and
3. Statement holding the state harmless.

Review and Processing:

Entirely within DHEC. No hearings are required.

Reporting/Monitoring:

DHEC monitors a tracking system via manifest copies. A shipper must report changes of plans so that each shipment's file can be closed out. DHEC makes 100 percent inspection of low level wastes at Barnwell. High level spent fuel goes to the Savannah River Plant where it is inspected by federal officials.

Fees:

\$50.00 for 75 cubic feet or less of waste consisting of 100 curies or less; \$500.00 for more than 75 cubic feet or more than 100 curies.

Appeal Process:

Any person subject to enforcement proceedings may apply to DHEC within 20 days for a hearing which must be held within 30 days.

Enforcement:

First violation: \$1,000-5,000 and shipper's permit suspended for not less than 30 days. Second violation within 12 months: \$5,000-25,000 and shipper's permit suspended for one year or until he demonstrates that adequate measures have been taken to prevent reoccurrence of the violation. Violations which do not result in emissions in excess of applicable limits may incur a fine up to \$1,000 and cause the permit to be suspended up to one year.

### **3.6 Noise Regulations**

#### INTRODUCTION

South Carolina has not passed any legislation providing for control or abatement of noise pollution. Such activities are carried out pursuant to federal regulations.

# RESOURCE EXTRACTION

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#### **4.0 Resource Extraction**

Resource extraction refers to the development of oil and gas resources as well as the mining of metals and construction materials. In South Carolina, several agencies are involved in the regulation of resource extraction.

Regulation of oil and natural gas production is the responsibility of the S. C. Water Resources Commission and the Department of Health and Environmental Control (DHEC). Surface mining activities are regulated by the S.C. Land Resources Conservation Commission of the Division of Mining and Reclamation. In addition, the S. C. Budget and Control Board has the power to lease state lands for oil and gas production and the mining of phosphate rock deposits.

The laws, regulations and permit programs pertaining to resource extraction are discussed in detail in the following chapters.

## 4.1 Energy Resources Development

### INTRODUCTION

The Oil and Gas Act consists of two parts. Part 1 pertains to the regulation of exploration, drilling, production, and transportation of oil and gas. This part is concerned primarily with the conservation of oil and gas produced in the state. Part 1 is administered by the S.C. Water Resources Commission.

Part 2 is primarily related to prevention and cleanup of oil spills caused by transportation vessels and terminal facilities. This part is administered by the S. C. Department of Health and Environmental Control as part of its pollution control mission.

In addition, the SC Budget and Control Board has the power to lease state lands for drilling and production, and the Public Service Authority and forfeited lands commissions may execute leases on lands under their jurisdictions. South Carolina's coastal management program is administered by the S.C. Coastal Council (see Chapter 5.4) who must certify any state or federal permit before it can be issued in the eight counties of the coastal zone, out to the three mile limit. Thus, the Council may be involved in the implementation of this act.

The area affected by this act is the land and waters of the state. Beyond the three mile limit, federal law has jurisdiction over Outer Continental Shelf oil and gas activities. Presently, no oil or gas has been found in South Carolina.

Specific regulations for both parts of the act are in preparation but have not as yet been finalized.

## 4.2 Metalliferous Mining

### INTRODUCTION

Presently, no metalliferous mining takes place in South Carolina although previously deposits of phosphate, feldspar, mica, kyanite, gold, tin, lead, magnesium and a variety of heavy minerals containing titanium, cesium, thorium and zirconium were mined. Should these resources be exploited again, operators would be required to conform to the provisions of the South Carolina Mining Act (see Chapter 4.3 Construction Materials). In the case of phosphate deposits under state lands and waters, leases would be granted by the SC Budget and Control Board (see Chapter 6.2 Wetlands).

### AUTHORIZING STATUTE(S)

I. FEDERAL  
N/A

II. STATE  
South Carolina Mining Act (S.C. Code of Laws, 1976, Title 48, Chapter 19.)

### TITLE OF REGULATION

Rules and Regulations of the South Carolina Mining Act. Regulation 89-1 through 89-29 and 89-40.

### ADMINISTERING AGENCY

S. C. Land Resources Conservation Commission  
Division of Mining and Reclamation  
2221 Devine Street, Suite 222  
Columbia, S. C. 29205  
803/758-2823

### SUMMARY OF REGULATION

#### I. APPLICABILITY

See Chapter 4.3 Construction Materials.

### 4.3 Construction Materials

#### INTRODUCTION

Surface mining is regulated by the SC Mining Act of 1973. The purpose of the Act is to protect and restore the usefulness, productivity, and scenic values of the lands and waters involved in mining by requiring permits for mining operations and an approved reclamation plan.

Presently 12 mineral commodities are mined in South Carolina: kaolin, fuller's earth, limestone, sand, granite, vermiculite, sericite, manganese schist, peat, brick clay, shale and gravel. All are used to some degree as construction materials or as filler for construction materials.

#### AUTHORIZING STATUTE(S)

I. FEDERAL  
N/A

II. STATE  
South Carolina Mining Act (S.C. Code of Laws, 1976, Title 48, Chapter 19).

#### TITLE OF REGULATION

Rules and Regulations of the South Carolina Mining Act. Regulation 89-1 through 89-29 and 89-40.

#### ADMINISTERING AGENCY

S. C. Land Resources Conservation Commission  
Division of Mining and Reclamation  
2221 Devine Street, Suite 222  
Columbia, SC 29205  
803/758-2823

#### SUMMARY OF REGULATION

##### I. APPLICABILITY

A permit is required for 1) exploratory excavations on sites larger than one acre, and 2) mining operations.

##### II. REGULATORY REQUIREMENTS

Operators must submit a reclamation plan at the time they apply for a permit to operate a mine.

Reclamation standards are listed in the regulation. DHEC water quality standards are referenced. (If the land is to be reclaimed as a sanitary land fill or other waste disposal site, then permitting, administration, and enforcement of operational and monitoring requirements will be transferred to DHEC.)

The reclamation plan must address rehabilitated land uses, grading and erosion control, revegetation, drainage, monitoring and control of pollutants and safety hazards, and time schedules.

The Land Entry Agreement gives the SC Land Resources Conservation Commission access to the mining property for inspections and administration of the Act and its regulations. A similar Lessor's Land Entry Agreement is required if the mine operator leases the land instead of owns it.

### III. PERMIT REQUIREMENTS

#### Time Requirements:

Within 60 days from the time the completed application is submitted, the Land Resources Conservation Department must approve, approve with stated modifications, or disapprove the application.

#### Application/Information Required:

The Application for a Mining Permit form requires information about land ownership, characteristics of the mine, extraction methods, number of acres affected, bonding, measures to protect natural resources, and maps indicating mining areas and environmentally sensitive areas. Additional information may be required by the Commission.

#### Review and Processing:

Copies of the application may be referred for review to the S.C. Water Resources Commission, S.C. Department of Health and Environmental Control, S. C. Wildlife and Marine Resources Department, S.C. Coastal Council, or other state and local agencies as appropriate.

The Department will advertise the applicants' intention to mine in a local and/or areawide newspaper once a week for three weeks.

A permit may be granted with additional requirements such as sediment and erosion control measures, visual screening measures, dewatering measures, fencing, spoil management, runoff control, or surface blasting mitigation measures.

#### Reporting/Monitoring:

The Annual Reclamation Report must address new acreage affected by mining during the past 12 months, measures undertaken for sediment and erosion control and public safety, and acres reclaimed during the past 12 months.

#### Fees:

A performance bond is required within 60 days of permit approval to cover three years of operations and must be renewed thereafter. The bond may be reduced as tracts are reclaimed. The bond schedule is as follows:

Acres	Bond
0.0-4.9	\$2,500
5.0-9.9	\$5,000
10.0-24.9	\$12,500
25.0 or mores	\$25,000 or as much as necessary to assure reclamation

Appeal Process:

All hearings before the Department involving suspension or revocation of mining permits are held in accordance with Section 48-19-120 of the Mining Act and Act 176 of 1977 as amended.

The decision of the Department may be appealed to the S.C. Mining Council, a 13-member board composed of state officials and representatives of mining interests and conservation groups. The final order of the Council may be appealed to the Court of Common Pleas.

Enforcement:

The Department may make inspections and investigations of the permitted area at any reasonable time.

## 4.4 Phosphate Mining

### INTRODUCTION

The SC Budget and Control Board has exclusive control and protection of the rights and interests of the state in the phosphate rocks and phosphatic deposits in navigable streams, the marshes, and waters of the state. The Board issues leases for mining and contracts for royalties to be paid to the state during the life of the license. However, no phosphate has been mined in South Carolina in recent decades. This Act also serves to protect wetland resources.

### AUTHORIZING STATUTE(S)

I. FEDERAL

N/A

II. STATE

S. C. Minerals and Mineral Interests in Public Lands Act (S.C. Code of Laws, 1976, Title 10, Chapter 9).

# LAND USE REGULATION

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## 5.0 Land Use Regulation

Land use regulation in South Carolina is an authority delegated to local governments by enabling legislation. Locally adopted tools for land use regulation include zoning, comprehensive plans, subdivision regulations and official maps.

At the state level, the regulation of land use is not specifically a function of any state agency. However, land use considerations are often an element in the implementation of various environmental legislation and permit programs. Specifically, South Carolina has developed regulations which affect:

- Electric utility siting (5.1)
- Coastal zone management (5.4)
- Public lands and waters (5.5)

## 5.1 Major Facility Siting

### INTRODUCTION

The S. C. Public Service Commission issues certificates for the construction and operation of major electric utility facilities. Hydroelectric generating facilities which come under the licensing jurisdiction of the U.S. Federal Energy Regulatory Commission are exempt from the provisions of this Act. Facilities which after construction will be leased to or operated by the S. C. Public Service Authority are also exempt.

### AUTHORIZING STATUTE(S)

I. FEDERAL  
N/A

II. STATE  
South Carolina Utility Facility Siting and Environmental Protection Act  
(S.C. Code of Laws, 1976, Title 58, Chapter 33).

TITLE OF REGULATION  
N/A

### ADMINISTERING AGENCY

Utilities Division  
S. C. Public Service Commission  
P.O. Drawer 11649  
Columbia, S. C. 29211  
803/758-2343

### SUMMARY OF REGULATION

#### I. APPLICABILITY

The statute applies to 1) electric generating plants and associated facilities operating at a capacity of more than 75 megawatts and 2) an electric transmission line and associated facilities of a designed operating voltage of 125 kilovolts or more.

#### II. REGULATORY REQUIREMENTS

All electric utilities seeking to construct or operate facilities as specified above must apply for certification.

#### III. PERMIT REQUIREMENTS

##### Time Requirements:

The Commission shall fix a date for a hearing between 60 and 90 days after receipt of a completed application. Applications for amendments to a certificate are handled in the same way.

##### Applications/Information Required:

The application for a certificate must contain the following information:

1. Description of the location and facility to be built;
2. Summary of environmental studies conducted;

3. Statement of need;
4. Such other information as the Commission may require;
5. Proof that a copy of the application has been given to heads of local government in the service area and state and local governments responsible for land use planning and environmental protection; and
6. Proof of proper notice in proposed service areas.

Review and Processing:

Parties to the certification process include the S. C. Dept. of Health and Environmental Control; Wildlife and Marine Resources Dept.; Dept. of Parks, Recreation and Tourism; and Water Resources Commission. Other state agencies may be involved in review and comment.

Any hearings deemed necessary are held by the S.C. Public Service Commission.

Reporting/Monitoring:

Reporting of environmental impacts is required by NPDES permits, etc. rather than the utility facility construction permit itself.

Fees:

None

Appeal Process:

The decision of the Public Service Commission or any conditions attached to the permit by another state agency may be appealed to the courts.

## 5.2 Land Use

### INTRODUCTION

South Carolina has not passed any legislation providing for comprehensive state land use planning. S.C. Act of 1967 delegates the preparation of comprehensive plans, zoning ordinances, subdivision regulations and official maps to local government planning organizations and provides for adoption by local government legislative bodies (Chapter 7.1 Substate Planning Organizations and Land Use Controls).

The S. C. Coastal Council is authorized to protect Critical Areas from adverse impacts by development and certify state and federal agencies' activities in the eight-county coastal zone. The Coastal Council provides technical assistance to coastal local governments in developing land use plans and works with them to create Special Area Management Plans for adoption by the Council as well as the local government. Local governments may submit their plans to the Council for approval and adoption into the Coastal Management Program (Chapter 5.4).

## 5.3 Floodplain Management

### INTRODUCTION

Floodplain management in South Carolina comes about largely as a result of local governments' enrollment in the National Flood Insurance Program (administered by the Federal Emergency Management Agency) and the implementation of its mandatory local floodplain management ordinances which delineate flood hazard zones and restrict development accordingly. The S.C. Water Resources Commission serves as state coordinator for the program, although the agency has no enforcement authority. The state is presently developing floodplain management regulations for state-owned buildings to comply with FEMA policies.

Additional protection of floodplains is derived from provisions of the S.C. Coastal Zone Management Act, S.C. Utility Facility Siting and Environmental Protection Act, and permit requirements for any construction, alteration, dredging, filling or other activity below the ordinary high water mark of any navigable waterway in the state.

## 5.4 Coastal Zone Regulations

### INTRODUCTION

The purpose of the Act is to protect the quality of the coastal environment and to promote the economic and social improvement of the coastal zone with due consideration for competing natural resource demands. A comprehensive management program is required to protect the sensitive coastal resources of Beaufort, Berkely, Charleston, Colleton, Dorchester, Horry, Jasper and Georgetown Counties which comprise the state's coastal zone. Critical areas within these counties are defined as coastal waters, tidelands, beaches, and primary oceanfront sand dunes.

### AUTHORIZING STATUE(S)

#### I. FEDERAL

Coastal Zone Management Act of 1972, (P.L. 92-583)

#### II. STATE

South Carolina Coastal Zone Management Act (S.C. Code of Laws, 1976, Title 48, Chapter 39)

### TITLE OF REGULATION

Permitting Rules and Regulations of the South Carolina Coastal Council

### ADMINISTERING AGENCY

Permit Administrator  
South Carolina Coastal Council  
Summerall Center, Suite 802  
19 Hagood Street  
Charleston, S.C. 29403  
803/758-8442

### SUMMARY OF REGULATION

#### I. APPLICABILITY

These regulations apply to all activities which may affect critical areas in the coastal region.

#### II. REGULATORY REQUIREMENTS

No person may fill, remove, dredge, drain or erect any structure on or in any way alter any critical area without first obtaining a permit from the Coastal Council.

In addition, the Council must review and certify dredge and fill permits (Corps of Engineers) and NPDES permits (Department of Health and Environmental Control) which affect the coastal zone.

The Coastal Council encourages the submission of development plans affecting a critical area so that Council staff may assist the applicant with permit requirements.

Provisions are made for emergency actions that would normally require a permit. The criteria upon which permit decisions for development are made are also listed.

## II. PERMIT REQUIREMENTS

### Time Requirements:

Within 30 days of receiving a complete permit application or a Joint Public Notice, the Coastal Council must notify interested agencies, adjacent land-owners, affected local governments, and other interested persons of the applicant's intent. Processing begins immediately and must be accomplished within 90 days (except for minor development permits which must be processed in 30 days).

### Applications/Information Required:

An application must contain:

1. Name and address of the applicant;
2. A plan or drawing showing the applicant's proposal and the manner or method by which the proposal shall be accomplished;
3. A plat or a copy of a plat of the area in which the proposed work will take place;
4. A certified copy of the deed, lease or other instrument under which the applicant claims title, possession or permission from the owner of the property to carry out the proposal;
5. A list of all adjoining landowners and their addresses or a sworn affidavit that with due diligence such information is not ascertainable. When considered appropriate by the Council or its staff, additional information may be required concerning affected landowners;
6. A brief description of the proposed alteration, its purpose and intended use, including a drawing of the type of structure, a description of the method of construction, and identification of materials and equipment to be used; and
7. A copy of the public notice published at least once in both a newspaper of state and local circulation within 15 days of the publication of the Coastal Council's Public Notice.

### Review and Processing:

Review and processing is coordinated by the Council with the Corps of Engineers, Coast Guard, and DHEC as necessary. If the application is approved, the Coastal Council will aid the applicant in obtaining federal permits and certificates, etc.

All interested parties may submit written comments up to 30 days after the receipt of a Public Notice. Public hearings may be held at the discretion of the Coastal Council or if 20 citizens so request in writing.

The Coastal Council may issue a Joint Public Notice with the Corps of Engineers with regard to Section 402 Dredge and Fill permits, the U.S. Coast Guard with regard to NPDES permits.

### Reporting/Monitoring:

The applicant is not required to submit any reports to the Coastal Council.

## Fees

None

## Appeal Process:

Notice of Intention to Appeal an initial permit application decision must be filed in writing within 15 days of the date of notification to the applicant and other persons who requested notification of the initial Council action. The appeal must be filed within 15 days thereafter. The Coastal Council has 10 days to issue a public notice of a hearing. Written comments are accepted for 30 days. The appeal must be heard within 65 days of the Public Notice. A decision must be made within 35 days of the hearing. Thereafter, the applicant has 20 days to file an appeal with the Circuit Court of the county in which the affected land lies.

## Enforcement:

The Council's enforcement and monitoring program includes twice-weekly aerial surveillance. Field officers are everted in each county in addition to Coastal Staff in Columbia and Charleston.

The Coastal Council may revoke or modify a permit based upon non-compliance or violation of the original conditions of the permit or the submission of false information. A cease and desist directive is issued. The developer may be required to restore the area to its original condition. The Council may file suit in circuit court. When a person is found altering a critical area without a permit and such activity is not exempted by the Act, has not been authorized by a permit, is in violation of the terms of a Council permit or is violating provisions of the Coastal Management Act in any manner, the Council may cause to be issued a warrant for the arrest of the violator. Any person found guilty of violation of the Act shall be punished by imprisonment of not more than six months or by a fine of not more than \$5,000, or both for the first offense; and by imprisonment of not more than one year or by a fine of not more than \$10,000, or both for each subsequent offense.



## 5.5 Public Land and Water Resource Usage

### INTRODUCTION

The South Carolina Budget and Control Board is trustee of public lands and navigable waters of the state. As such, the Board issues permits for the utilization of such public resources to assure that the public interest is served and that private benefits do not negatively impact public resources.

This program influences floodplain management, water quality, and coastal zone management activities.

### AUTHORIZING STATUTE(S)

#### I. FEDERAL

Federal Water Pollution Control Act (P.L. 92-500) Section 404; River and Harbor Act (33 USC 401 et seq.)

#### II. STATE

S. C. Code of Laws, 1976; Title 1, Chapter 5, Section 14; Title 1, Chapter 11, Section 70; Title 49, Chapter 1, Section 10.

### TITLE OF REGULATION

Permits for Construction in Navigable Waters. Rule 19-100 through 19-800.

### ADMINISTERING AGENCY

Environmental Affairs Division  
Water Resources Commission  
P.O. Box 4515  
(3830 Forest Drive)  
Columbia, S. C. 29204  
803/758-2514

### SUMMARY OF REGULATION

#### I. APPLICABILITY

A permit is required for any construction, alteration, dredging, filling, or other activity when such activity involves the use of:

1. Any land below the mean high water line in tidally influenced areas;
2. Any submerged lands in tidally influenced areas;
3. Any land below the ordinary high water mark of any non-tidal navigable waterway in the state.

The Budget and Control Board may issue, if in the interest of the state, general or block permits for certain clearly described categories of work to agencies, political subdivisions, or public service corporations. After such general or block permit has been issued, individual activities falling within those authorized categories do not need further permits. General or block permits may be issued only for substantially similar structures within a described category.

Projects in tidal areas under the jurisdiction of the S. C. Coastal Council (see Chapter 5.4) are excluded from this permit requirement.

## II. REGULATORY REQUIREMENTS

In those instances where the applicant must obtain federal authorization from the Corps of Engineers under Section 9, 10, 13 or other relevant provisions of the River and Harbor Act, as amended (30 Stat. 1151; 33 USC 401 et seq.) or Section 404 of the Federal Water Pollution Control Act (P.L. 92-500; 33 USC 1411) or from the U. S. Coast Guard for bridge construction (80 Stat. 941; 49 USC 1165q(6)(A)), the applicant makes application to those agencies on the forms provided by them. The state uses a copy of the application and requires no separate forms.

In some instances, federal permits are not required but a state permit is necessary.

In addition, a 401 Water Quality Certificate is sometimes required. It must be obtained from the Department of Health and Environmental Control (DHEC) before either the state or relevant federal permit will be approved.

## III. PERMIT REQUIREMENTS

### Time Requirements:

Unless the proposed project is complex or involves major environmental or legal issues resulting in agency or public objections, most applications for a state permit can be processed in 45 days.

### Applications/Information Required:

An application for a state permit must be made to the Water Resources Commission on behalf of the State Budget and Control Board on forms to be provided by the Commission containing, but not limited to:

1. Name and address of the applicant;
2. Location of the proposed activity;
3. A brief description of the proposed activity, its purpose and intended use, including a drawing of the type of structures and method of construction including size specification;
4. A plan and elevation drawing showing the general and specific site locations and character of all proposed activities, including the size relationship of the proposed structures to the size of the impacted waterway and depth of water in the area and the distance of encroachment of the activity into the water.
5. For docks, piers, boardwalks or bulkheads without fill and extending no more than 50 feet from the shoreline, a handdrawn sketch showing the size and shape of the structure and a location map will be considered sufficient detail.

### Review and Processing Procedures:

Where a federal permit is required, a joint public notice is used. Otherwise, within 15 days of receipt of an application, the Water Resources Commission issues a public notice. The applicant must in all cases publish a notice in a newspaper of general circulation in the county where the encroachment is sought, at least once in each of two consecutive weeks.

A number of state agencies review the permit application. The agencies are collectively responsible for a total assessment of the impacts of the project on state lands and waters.

State agencies have 30 days in which to comment and may request a 30-day extension. Objections are settled directly between the applicant and the affected state agency. Modifications will be included as conditions of the permit.

The Water Resources Commission may hold a Review Hearing before taking final action on a permit upon the request of the applicant or an objecting state agency when reconciliation efforts have failed. Thereafter, the Water Resources Commission may recommend to the Budget and Control Board denial of the permit, conditional approval, or approval.

The Water Resources Commission or the Budget and Control Board may hold public hearings at their discretion to obtain local public input.

Reporting/Monitoring:

None

Fees:

None

Appeal Process:

An aggrieved agency, applicant, or interested citizen may appeal the recommendation of the Water Resources Commission to the Budget and Control Board. Appeal thereafter is to the Court of Common Pleas.

Enforcement:

No procedures in effect at the state level. The enforcement procedures of relevant federal agencies take effect, however.

# ECOLOGICAL/SOCIAL PRESERVATION

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## **6.0 Ecological/Social Preservation**

Unique ecological and cultural features enhance the quality of life and are often the focus of special legislation. The federal government and many states have enacted laws specifically to protect special features and resources such as threatened and endangered species, wetlands and archeological and historical resources. South Carolina has also recognized the importance of these special resources and has enacted laws specifically to preserve these resources. These laws are detailed in the following chapters.

## **6.1 Wetlands**

### INTRODUCTION

Wetlands are protected directly and indirectly by a variety of state laws:

1. Coastal Zone Management Act (Chapter 5.4)
2. Minerals and Mineral Interests in Public Lands Act (Chapter 4.4)
3. Heritage Trust Program Act (Chapter 6.4)
4. Utility Facility Siting and Environmental Protection Act (Chapter 5.1)

These acts serve to exclude development from wetlands, prohibit other disturbances of wetlands, or acquire these areas as habitat for threatened and endangered species.

## 6.2 Rare and Endangered Species

### INTRODUCTION

The Wildlife and Marine Resources Department is charged with managing certain nongame wildlife for human enjoyment, scientific purposes, and their perpetuation as members of ecosystems. Endangered species are afforded protection to maintain and enhance their numbers.

The state may establish programs, including acquisition of land or aquatic habitats (See Chapter 6.4 Heritage Trust Program) to manage nongame and endangered species and enter into agreements with public agencies or private parties for the administration of such areas or management programs.

Permits may be granted for the taking, possession, transportation, exportation, or shipment of listed species for scientific, zoological, or educational purposes, for propagation in captivity, or other special purposes.

Endangered species may be removed, captured, or destroyed where necessary to alleviate property damage or protect human health. A permit from the Department is required and the operation should, when possible, be supervised by an agent of the Department.

Plants are not protected under South Carolina law except that sea oats and the venus flytrap may not be collected or destroyed on public land or on private land without the owner's permission.

### AUTHORIZING STATUTE(S)

#### I. FEDERAL

Endangered Species Act of 1973 (PL 92-205) as amended.

#### II. STATE

South Carolina Nongame and Endangered Species Conservation Act (SC Code of Laws, 1976, Title 50, Chapter 15).

### TITLE OF REGULATION

Nongame and Endangered Species list (Regulation 123-150); addition of sea turtles to the list (Regulation 123-150.0); addition of American alligator (Regulation 123-151); Scientific Collecting Permit (Regulation 123-150.3)

### ADMINISTERING AGENCY

S. C. Wildlife and Marine Resources Department  
P.O. Box 167  
Columbia, S. C. 29202  
803/758-0014

## SUMMARY OF REGULATION

### I. APPLICABILITY

Species and subspecies found on the South Carolina Nongame and Endangered Species List, the U. S. Endangered Native Fish and Wildlife List, and the U. S. Endangered Foreign Fish and Wildlife List are covered by the Act and its regulations. Permits are also required for nongame vertebrates.

### II. PERMIT REQUIREMENTS

Time Requirements:

One to four weeks depending upon completeness of the application and if threatened or endangered species are affected.

Review and Processing:

Normally in-house. If an endangered species is affected, other agencies or universities may be consulted.

No hearings are required.

Reporting/Monitoring:

A year-end (December 31) report is required of all applicants; monthly reports may be required if threatened or endangered species are affected.

Fees:

\$10.00

Appeal process:

None

Enforcement:

Periodic inspections are possible.



### 6.3 Archeological and Historical Preservation

#### INTRODUCTION

The State Historic Preservation Officer and State Archeologist derive their review authority mainly from federal legislation. Under the S. C. Heritage Trust Program, the Department of Archives and History must approve the acquisition of any cultural sites. Under the S. C. Coastal Zone Management Act, the Coastal Council must review development proposals that could affect historic and archeologic sites in the eight coastal zone counties (Beaufort, Berkeley, Charleston, Colleton, Dorchester, Horry, Jasper, and Georgetown).

#### AUTHORIZING STATUTE(S)

##### I. FEDERAL

Natural Historic Preservation Act of 1966 (PL89-655); Reservoir Salvage Act of 1960 (PL 86-523) as amended; National Environmental Policy Act (PL 91-190), Archeological Resources Protection Act of 1979 (PL 96-95).

##### II. STATE

South Carolina Heritage Trust Program (S. C. Code of Laws, Title 51, Chapter 17); South Carolina Coastal Zone Management Act (S.C. Code of Laws, 1976, Title 48, Chapter 39); South Carolina Institute of Archeology and Anthropology (S.C. Code of Laws 1976, Title 60, Chapter 13).

#### TITLE OF REGULATION

N/A

#### ADMINISTERING AGENCY

State Archeologist  
Institute of Archeology and Anthropology  
University of South Carolina  
Columbia, S. C. 29208  
803/777-8170

State Historic Preservation Officer  
S. C. Dept. of Archives and History  
P.O. Box 11669  
Columbia, S. C. 29211  
803/758-5816

## **6.4 Heritage Trust Program**

### INTRODUCTION

The South Carolina Heritage Trust Program combines aspects of protection of rare and endangered species (Chapter 6.2) and historical and archeological preservation (Chapter 6.3). The act provides for the acquisition of Heritage Preserves and Sites to safeguard natural and cultural areas. The natural areas should contain relatively undisturbed ecosystems that include threatened/endangered/unique plant life or animal habitats and/or possess outstanding scientific, educational, aesthetic, or recreational characteristics.

The Wildlife and Marine Resources Commission serves as trustee of those preserves which have been dedicated, acquired, or accepted. The Commission also encourages the registration of sites as part of the program as a means of voluntary preservation of an area's natural characteristics. The Commission is empowered to inventory, prioritize, and acquire sites, based on recommendations of an Advisory Board. The Commission promulgates rules and regulations for the program and is responsible for the management of sites or the provision of management by others.

No permits are involved in this program.

## 6.5 Salvage of Submerged Antiquities

### INTRODUCTION

The state is declared to be the custodian of shipwrecks, vessels, cargoes, tackles, underwater archeological artifacts, and other things of value remaining unclaimed for more than 50 years on all bottoms of navigable waters within the state, extending one marine league seaward from the mean low water mark.

### AUTHORIZING STATUTE(S)

I. FEDERAL  
N/A

II. STATE  
Control of Certain Salvage Operations (S.C. Code of Laws, 1976, Title 54, Chapter 2).

### TITLE OF REGULATION

Revised Uniform Rules and Regulations. Together with the Statute, the package is referred to as the New South Carolina Underwater Salvage Law.

### ADMINISTERING AGENCY

State Archeologist  
Institute of Archeology and Anthropology  
University of South Carolina  
Columbia, S.C. 29208 803/777-8170

### SUMMARY OF REGULATION

#### I. APPLICABILITY

These regulations apply to all shipwrecks, vessels, cargoes, and underwater sites as described above.

#### II. REGULATORY REQUIREMENTS

A license (permit) is required from the S.C. Institute of Archeology and Anthropology for salvage operations by any party other than the Institute. However, no license for the disturbance or removal of any submerged antiquities which can be preserved in situ under the control of the state and remain as objects of interest shall be granted. No license for the disturbance or removal of any submerged antiquities which are, in the opinion of the Institute, a part of any archeological site on land where the state may be expected to conduct archeological research, shall be granted except in relation to and as a part of that archeological research. No license for the disturbance or removal of any submerged antiquities which, in the opinion of the Institute, are of primary scientific value shall be granted.

Three types of licenses may be granted:

1. Hobby License. A non-exclusive statewide license may be granted to an applicant for a temporary, intermittent search or salvage operation, requiring minimal equipment, training, and experience. It is granted for a period of up to one year. Holders of such licenses are specifically forbidden to exercise the privileges of this license in waters for which any type of exclusive license has been granted and is in effect, or in waters for which such exclusive license becomes effective during the life of that exclusive license.
2. Search License. An exclusive license may be granted to an applicant for the purpose of conducting an underwater search. A search unit will consist of an area of one square mile for a standard lease time of three months. More than one search unit may be granted to an applicant at one time at the discretion of the Institute, but in no instance is to exceed 72 search units, or 18 square miles for one year. The disturbance or removal of submerged antiquities under this license is expected to be of a nature only to allow for evaluation and interpretation of the antiquities found in the specified area.
3. Salvage License. An exclusive license may be granted to an applicant for the purpose of conducting a well-planned, large-scale, continuing, underwater salvage operation with experienced personnel, complex equipment, and major financial support. It is granted for a period not to exceed one calendar year.

### III. PERMIT REQUIREMENTS

#### Time Requirements:

Hobby licenses: immediately or within a few days; Search or Salvage licenses: within 30 days if applicant has pertinent information in hand.

#### Applications/Information Required:

The license application shall be accompanied by a specific outline of the proposed work, indicating the proposed date for the beginning of the work, the length of time proposed to be devoted to the work, and a statement of the anticipated disposition of any objects recovered. It shall contain the name and address of the applicant, the name or names of the person or persons who will be in immediate charge of the work, and the names and addresses of the project team.

It shall also be accompanied by a listing of the experience of all participants in the work, a listing of all equipment to be used, and a statement of the financial preparation of the applicant for the work. It shall include a sketch map, location map, or other pictorial description of the site or area where any and all of the work is to be done, of sufficient detail and definition as to be clearly and accurately located on a standard map or chart.

#### Review and Processing:

Internal to the Institute.

Informal conferences with Institute staff may be held but no provision for public hearings exists.

Reporting/Monitoring:

1. Hobby License: A written report of activities including a complete listing of all recovered objects and a diagram or other description of the place or places from which they were recovered shall be made to the Institute at the end of each calendar month during the life of the license. All objects recovered under the authority of this license during any calendar month will be made available to the Institute for inspection during that month or no later than 60 days from the end of that month. The Institute will grant to the licensee all, a portion, or none of the said objects either immediately or after a reasonable period of time for study, research, and photographing of said objects.
2. Search License: A written report of activities, including a listing of all objects recovered and a diagram, chart, or other description of all submerged antiquities located, shall be made to the Institute at a frequency noted on the license, or, if the operations are more-or-less continuous, at the end of each calendar week of such operations. All objects recovered under the authority of this license shall be made available to the Institute for inspection on demand but no later than 60 days from the end of the month of their recovery. The Institute will grant to the licensee all, a portion, or none of the said objects either immediately or after a reasonable period of time for study, research, and photography of said objects, not to exceed 60 days from the end of the month.
3. Salvage License: A written report of all activities of the licensee pertaining to the exercise of the privileges granted under this license shall be made to the Institute on the last calendar day of each month during the time the license is in force. This report shall be in the form of a daily log detailing all significant operations, both surface and underwater, and a listing of all objects recovered together with notations concerning the precise locations from which the objects were recovered and a sketch, plan drawing, or other pictorial representation of the appearance of the submerged antiquities in that location as of the beginning of the report period. It will also include a listing of all changes of personnel connected with the salvage operation, changes of, or additions to, equipment, and/or financial support for the operation, and any other pertinent information.

Fees:

1. Hobby license: a. \$5.00 for individuals, \$25.00 for clubs. b. Search license: \$25.00 per search unit. c. Salvage license: a fee ranging from \$100.00 to \$1,000.00 shall be charged, the rate within this range to be determined by the Institute at the time of granting of the license based upon the proposed size of the operation and other pertinent factors.

Appeal Process:

Court of Common Pleas.

Enforcement:

Licenses may be revoked for cause at the discretion of the Institute. Any objects taken without a license or contrary to a license may be confiscated.

## 6.6 Wild and Scenic Rivers

### INTRODUCTION

The purpose of the Act is to protect selected rivers and segments of rivers possessing unique and outstanding scenic, recreational, geologic, fish and wildlife, historic and cultural values for the benefit of present and future generations. The S. C. Water Resources Commission has established criteria for assessing a river's eligibility for inclusion in the system with input from other agencies and interested parties.

The S. C. Budget and Control Board with the consent of county government is empowered to accept donations of land which qualify for the river system and may purchase land or scenic easements along designated rivers.

The Water Resources Commission is authorized to prepare water and related land use plans for system components, assisted by the Department of Wildlife and Marine Resources which carries out the plans. The Scenic River System is administered as part of the state park and wildlife refuge areas programs.

The system presently contains one five-mile river segment in a mountain area which was previously part of a state park. Three other river segments are eligible for inclusion in the system pending donation or acquisition of land or easements.

No permitting requirements are associated with the administration of the act.

### AUTHORIZING STATUTE(S)

#### I. FEDERAL

National Wild and Scenic Rivers Act of 1972 (P.L. 90-542)

#### II. STATE

South Carolina Scenic Rivers Act of 1974 (S. C. Code of Laws, 1976, Title 51, Chapter 5) as amended by S.C. Scenic Bill S. 313, July 1, 1981.

### TITLE OF REGULATION

Procedures for the Administration of the South Carolina Scenic Rivers System (September 1979).

### ADMINISTERING AGENCY

Planning Division  
S. C. Water Resources Commission  
P. O. Box 4515  
3830 Forest Drive  
Columbia, S. C. 29204  
803/758-3754

# LOCAL REGULATORY POLICY

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## **7.0 Local Regulatory Policy**

Traditionally, land use control and zoning have been matters of concern for local governments. In South Carolina, this is reflected in state enabling legislation which provides for the establishment of local or regional planning organizations.



## 7.1 Substate Planning Organizations and Land Use Controls

### INTRODUCTION

The purpose of the Act is to enable counties and municipalities acting individually or in concert to establish regional or local planning organizations and to develop land use controls to guide future development.

Each county is assigned to one of ten groups of counties, and each group may choose to establish a Regional Council of Governments (COG). The formation of a COG must have the Governor's approval.

County and city legislative bodies are empowered to establish local planning agencies, which in turn are responsible for preparing comprehensive plans, zoning ordinances, subdivision regulations and official maps. Capital improvement plans and capital budgets are included in their duties.

The Act defines the scope of each type of planning organization's authority and deals with various administrative matters.

### AUTHORIZING STATUTE(S)

#### I. FEDERAL

N/A

#### II. STATE

An Act to Authorize Municipalities and Counties To Establish Planning Organizations and To Undertake Local and Regional Comprehensive Planning Programs, Including Zoning, Land Subdivision Development and Preparation of Official Maps. (Act 487 of 1967), as amended.

### SUMMARY OF REGULATION

#### I. APPLICABILITY

Each planning organization is empowered to promulgate its own regulations in compliance with certain guidelines set forth in the Act.