

DHEC GAP ANALYSIS 2016-2017

Part I: Regulatory Mandates

Division	Program	Name of Act	Does the Act provide for regulation? (Y or N)	Is the provision mandatory or discretionary (M or D)	Has the program promulgated regulations? (Y or N)	If not Implemented, why? 1 - Management Decision; 2 - Lack of Personnel; 3 - Lack of Funding; 4 - Other	If "1" or "4" explain
Public Health	Acute Disease Epi	Health Care Professional Compliance Act	Y	M	N	4	Regs have not been promulgated b/c the Act has not been implemented. However, Health Licensing has promulgated regs for the reporting of accidents & incidents, citing to section 44-30-60.
Public Health	Acute Disease Epi	Health Care Professional Compliance Act	Y	M	N	4	Regs have not been promulgated b/c the Act has not been implemented. However, Health Licensing has promulgated regs for the reporting of accidents & incidents, citing to section 44-30-60.
Health Regulation	Trauma	Stroke System of Care Act of 2011	Y	M	N	3	DHEC's duties pursuant to this article are contingent upon adequate funding. We lacked sufficient funding in prior years to perform all of the duties set forth in this Act, and therefore did not promulgate a regulation. We were provided funding this FY (2017) for one FTE, who was hired in January. We are requesting additional funding (recurring) in next year's budget to further implementation of the Act, including establishment and maintenance of a Stroke Registry. A Notice of Drafting of a proposed Stroke Regulation will be published in the April State Register. Based upon regulatory promulgation timelines, we anticipate presenting the proposed regulation to the Legislature for approval in 2018.
Health Regulation	MMO	Emerson Rose Act	Y	M	N	4	DHEC promulgated amendments to 61-102 in 2015 to include this Act; however, DHEC withdrew the regulation amendment from the General Assembly, due to proposed legislative initiatives. Awaiting revised statutory language before moving forward with regulatory changes.
Health Regulation	FSO	Methadone	Y	M	N	4	Amendments to Reg. 61-93 are needed to address statutory requirements in Sections 44-53-750 and -760 related to autopsies and minors.

Health Regulation	Certificate of Need	State Health Planning and Development Act	Y	M	N	4	DHEC previously promulgated a reg, 61-6, under this Act, but it was repealed in 2012 on the basis that this Act is superseded by the CON and Licensure Act.
Health Regulation	Drug Control	SC Controlled Substance Act; 44-53-710 thru -760	Y	M	N	4	There are no specific regulations promulated under the Act. Drug Control regulations at 61-4 do include sections pertaining to methadone, and Health Licensing regs do include sections pertaining to narcotic treatment centers.
Health Regulation	N/A	SC Controlled Substance Act; 44-53-610 through 660	Y	M	N	4	Marijuana is a Schedule I substance. Consequently, it is unlawful under both state and federal law to manufacture, distribute, dispense, deliver, purchase, or possess marijuana. This Act would require the Director and the Department to possess and distribute marijuana in contravention of those laws, and provides no immunity from criminal prosecution for doing so.
Health Regulation	N/A	SC Controlled Substance Act; 44-53-50	Y	M	N	4	This law is regulated by the EPA.
Environmental Quality Control	Division of Emergency Response/Oil & Chemical Emergency Response	Oil and Gas Exploration, Drilling, Transportation and Production Act	Y	M	N	1	Emergency Response, certification and other requirements are implemented in other provisions of this Act, or under other DHEC and/ or federal provisions, but no specific regulations have been adopted.
Environmental Quality Control	Division of Emergency Response/Terminal Facility Registration Certificate	Oil and Gas Exploration, Drilling, Transportation and Production Act	Y	M	N	1	Emergency Response, certification and other requirements are implemented in other provisions of this Act, or under other DHEC and/ or federal provisions, but no specific regulations have been adopted.
Environmental Quality Control	Multiple	Expedited Review Program	Y	M	N	4	Bureaus (BAQ and BOW) have implemented programmatic expedited review programs, but agency has not promulgated regulations for agency wide expedited review.

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Part II: Mandatory Statutes

1. Division	Program	Name of Act	Statutory Citation	Short Description	Mandatory or Discretionary (M or D)	Implemented (Y or N)	If not Implemented, why? i-Mgmt. Decision; ii-Lack of Personnel; iii - Lack of Funding; iv - Other	If "i" or "iv" explain
Public Health	Client Services	Establish Catawba Health District	44-3-110 thru -150	There is hereby created the Catawba Health District consisting of Chester, Lancaster and York Counties. The Catawba Health District shall be a subdivision of the Department of Health and Environmental Control and shall be under the direction and control of the Department of Health and Environmental Control. The Director of the Department of Health and Environmental Control shall appoint, after consultation with the District Advisory Council, a district medical director whose duty it shall be to protect the public health in the district.	M	N	iv	Consolidated into four districts (called health regions) in 2013 as a cost savings measure. The Catawba Health District is now part of the Midlands Health Region. Under review.
Public Health	Client Services	Establish Catawba Health District Advisory Council	44-3-120	There is also hereby created the Catawba Health District Advisory Council. Membership of the Advisory Council shall consist of sixteen members and shall be based upon population and community needs of the district. The initial membership shall consist of three members from Chester County, five members from Lancaster County and eight members from York County, who shall be appointed by the Governor upon the recommendation of the legislative delegations of the respective counties. Advisory Council members shall be appointed for terms commencing July 1, 1973.	M	N	iv	Consolidated into four districts (called health regions) in 2013 as a cost savings measure. The Catawba Health District is now part of the Midlands Health Region. The Catawba District Advisory is no longer functioning.
Public Health	Tobacco	SC Youth Smoking Prevention Act	SC Code Sections 44-128-10 through -50	Outlines the provisions of the SC Youth Smoking Prevention Act, funded by the Master Settlement Agreement, including the Youth Smoking Prevention Plan, reporting requirements, funding, and make-up of the Advisory Commission.	M	N	iii	DHEC receives funding from the cigarette tax to support its youth tobacco prevention program. DHEC works with the SC Tobacco-Free Collaborative.
Public Health	Children's Health	Head lice - voucher for treatment products	44-29-195	DHEC shall make available to eligible families, through the county health departments, products or vouchers for products for the treatment of pediculosis. For purposes of this subsection, a family is eligible if a child in the family is a student in the public school system and the child receives Medicaid or free or reduced school meals.	M	N	iii	Families access these medications through their providers or over the-counter. DHEC no longer provides primary care. Demand for these products decreased to the point that the medications were expiring before they could be given away.
Public Health	Research and Planning	Report of infants with diseased eyes	44-37-10	Should one or both eyes of an infant become reddened or inflamed at any time after birth, the midwife, nurse or person having charge of such infant shall report such condition at once to the county health department. Any person who fails to comply with the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than twenty-five dollars or imprisoned for not more than thirty days.	M	N		This condition is no longer a public health concern because prophylactic treatment is now available and is a standard of care. This condition is not included on the SC List of Reportable Conditions.

Public Health	Research and Planning	Instillation of prophylactic to prevent blindness within one hour after birth	44-37-20	Every doctor, midwife, nurse or other person attending the delivery at birth of a child in this State shall instill, or have instilled, into the eyes of the baby, within one hour after birth, some effective prophylactic approved by the Department of Health and Environmental Control, for prevention of blindness from ophthalmia neonatorum. A record of such administration or instillation shall be reported on the birth certificate, showing the time with respect to the birth and the kind of prophylactic administered.	M	N	i	DHEC does not approve the prophylactic medication. Approvals are handled at an individual level by practitioners who are experts in this area of practice. This practice is consistent with the current standards of care.
Public Health	Oral Health	Community Oral Health Coordinator	44-8-10 - 60	The statute outlines a community dental health program for public school students for which implementation of the provisions of the chapter is contingent upon the appropriation of adequate funding.	M	N	iii	
Public Health	Oral Health	Dentists, Dental Hygienists, and Dental Technicians	40-15-110 (E)	DHEC shall target services in a public health setting to under-served populations. Dental assistants may perform oral screenings utilizing the DHEC approved screening system in school and public health settings under direction of the DHEC public health dental program. Dental assistants employed within or contracted through the public health system may assist in the delivery of public health dental program services as defined in this section. Program activities are performed under the direction of the Department of Health and Environmental Control State Dental Coordinator or the department's designee but do not require that the coordinator be present when services are performed.	M	N	iii	
Public Health	PHSIS	South Carolina FY 2015-2016 State Budget Proviso 34.39 (SCHIDS)		South Carolina Health Integrated Data Services (SCHIDS) program is to be established and disseminate data about prevalence, treatment and cost of disease from SC Health and Human Services (DHHS) Data Warehouse and in particular the Medicaid system. The Revenue and Fiscal Affairs (RFA) office shall provide data needed by the SCHIDS program to fulfill its mission.	M	N	iv	South Carolina Health Integrated Data Services (SCHIDS) program has been established. Program is working with RFA and DHHS to disseminate data about prevalence, treatment and cost of chronic disease in SC. Medicaid data will be added and disseminated by the end of 2017.
Public Health	Vital Records	Domestic Relations - Marriage	20-1-320	Division of Vital Statistics shall print and distribute forms of marriage license and certificate to be used by all probate courts of this State in the issuance of marriage licenses.	M	N	i	Provide electronic form to probate courts rather than printing and distributing forms.
Public Health	Vital Records	Vital Statistics	44-63-30	Establishes Director of DHEC as State Registrar. DHEC shall provide suitable space including fireproof vaults and filing cases for permanent preservation of records.	M	N	iv	Currently do not have adequate space to store sealed files in fireproof vault/filing cases. Options include occupying current server room once servers are transitioned off-site.
Health Services	Vital Records	Vital Statistics	44-63-40	State Registrar must appoint chief administrative office of each county health dept. as the county registrar. County registrar can appoint deputy county registrar to carry out duties of county office. County registrar must appoint subregistrar to issue Burial-Removal-Transit Permit.	M	N	i	Consolidated into four regions with a total of 15 VR offices as cost saving measure. Regional Coordinators and Site Supervisors carry out these duties (defined in position descriptions).
Health Services	Vital Records	Vital Statistics	44-63-70	State registrar shall prescribe forms for certification and recording of vital records and furnish copies to county registrars and appropriate agencies.	M	N	iv	Most forms are now electronic.

Health Services	Vital Records	Vital Statistics	44-63-74	Requirements for electronic filing of death certificates, and administrative penalties for not meeting the electronic filing requirement or for filing a late record.	M	N	iv	Have not yet assessed penalties. Developing procedures with intermediate steps to demonstrate good cause.
Health Services	Vital Records	Vital Statistics	44-63-80	Establishes entitlement for issuance of birth certificates; states will include SC Family Respect pamphlet with all birth records issued. Establishes entitlement for short form birth certificates.	M	N	iv	The SC Family Respect pamphlet is no longer produced. Short form birth certificates are no longer produced because they cannot be used for legal purposes.
Public Health	Acute Disease Epi	Health Care Professional Compliance Act	44-30-10 through 90	DHEC is authorized to ensure and oversee the implementation of Public Law 102-141, Section 633 (Preventing transmission of HIV and Hepatitis B during exposure prone invasive procedures). DHEC shall provide consultation and assistance to licensing boards, as appropriate, to ensure compliance with CDC recommendations (By October 1, 1992, each licensing board shall adopt the CDC recommendations, communicate with its respective health care professionals, institute disciplinary or other action for violations). DHEC shall appoint at least one or approve an existing expert review panel.	M	N	iv	DHEC provides consultation. The State Medical Board no longer has a standing review panel. Reviews are handled at an individual level by practitioners who are experts in this area of practice.
Public Health	TB	Payment for medical care and hospitalization	44-31-520	Patients of the State Park Health Center who are able to pay for medical care and hospitalization shall be required to do so.	M	N	iv	The State Park Health Center is no longer operational.
Public Health	TB	Creation of a Tuberculosis Control Advisory Committee	44-31-610	Creation, membership and duties of Tuberculosis Control Advisory Committee appointed by the Governor.	M	N	iv	As TB prevalence has decreased, public health has become the subject matter expert on control of TB so an advisory committee is not needed. DHEC follows the comprehensive guidance published by the American Thoracic Society, CDC and the Infectious Disease Society of America
Public Health	Acute Disease Epi	Health Care Professional Compliance Act	44-30-80	An educational institution providing basic training programs for health care professionals in preparation for licensure in the State shall certify annually to the department that it provides curricula for infection control, universal precautions, and sterilization and disinfection techniques appropriate for health care professionals participating in its education programs.	M	N	iv	DHEC does not have funding to develop a certification system.

Public Health	STD/HIV	Contagious and Infectious Diseases	44-29-100	Any person who is confined or imprisoned in any state, county, or city prison of this State may be examined and treated for a sexually transmitted disease by the health authorities or their deputies. The state, county, and municipal boards of health may take over a portion of any state, county, or city prison for use as a board of health hospital. Persons who are confined or imprisoned and who are suffering with a sexually transmitted disease at the time of expiration of their terms of imprisonment must be isolated and treated at public expense as provided in Section 44 29 90 until, in the judgment of the local health officer, the prisoner may be medically discharged. In lieu of isolation, the person, in the discretion of the board of health, may be required to report for treatment to a licensed physician or submit for treatment provided at public expense by the Department of Health and Environmental Control as provided in Section 44 29 90.	M	N	iv	With the advancement of medical treatment, isolation of all patients with a sexually transmitted infection is no longer a standard of care.
Public Health	STD/HIV	No discharge from confinement until cured of sexually transmitted disease; subsequent treatment	44-29-110	No persons suffering from the STDs listed in 44-29-60 can be discharged from confinement until they are cured or, if no cure is available, upon DHEC approval. If an individual is released prior to being cured, DHEC shall direct the individual to receive further treatment. Failure of the individual to follow DHEC's directions subjects the individual to the penalties found in 44-29-140.	M	N	iv	With the advancement of medical treatment, isolation of all patients with a sexually transmitted infection is no longer a standard of care.
Public Health	Injury and Violence Prevention	Medical Advisory Board	56-1-221	Medical Advisory Board related to Drivers Licenses - There is created an advisory board composed of 13 members. One member must be selected by the Commissioner of the Department of Health and Environmental Control from his staff, ten members must be appointed by the South Carolina Medical Association, and two members must be appointed by the South Carolina Optometric Association. The member selected by the Commissioner of the Department of Health and Environmental Control must be the administrative officer of the advisory board. To the maximum extent possible, the members of the board appointed must be representative of the disciplines of the medical and optometric community treating the mental or physical disabilities that may affect the safe operation of motor vehicles.	M	N	iii	
Public Health	Acute Disease Epi	Serological blood tests for pregnant women	44-29-120	Testing pregnant women for syphilis, rubella, Rh Factor and hemoglobin - A laboratory approved to conduct certain serological testing must participate in an appropriate proficiency testing program approved by DHEC.	M	N	iv	DHEC does not have this capability. Proficiency testing for labs is covered by the federal CLIA program.
Administration	Information Technology	DHEC: Data Center Migration	Proviso 34.52	Of the funds appropriated to the Department for Data Center Migration, the department must utilize the Department of Administration, Division of Technology Operations for shared services, including but not limited to, mainframe services, application hosting, servers, managed servers, storage, network services and disaster recovery services.	M	N	iv	Still in planning phase; no servers/services have been migrated yet

Administration	Administration	Medical and Dental Scholarship Fund	59-111-510 et seq.	DHEC shall administer a fund to be known as “The South Carolina Medical and Dental Loan Fund” with sums as may be appropriated by the General Assembly.	M	N	iii	
Health Regulation	Emergency Medical Services - Children	Children's Emergency Medical Services Act	44-61-330 (A)	Provides the minimum scope of the EMSC program.	M	N	iv	The Department is in the process of implementing the guidelines for voluntary designation of pediatric ERs. SC EMSC utilizes the National Data Oversight instead of a state level oversight.
Health Regulation	Trauma	Stroke System of Care Act of 2011	44-61-670 (A)	Provides for the duties of the Department, in consult with the Stroke System of Care Advisory Council, including establishing the Stroke Registry Task Force, which shall maintain a stroke registry.	M	N	iii	The Department's duties under this Act are contingent upon adequate funding. We have had limited funding up until now. We are currently requesting funds to further implementation. Staff and the Task Force are in the process of implementing the Stroke Registry.
Health Regulation	FSO	Tattooing	44-34-110 (B)	An applicant for license renewal or for a new license at an existing tattoo facility location shall pay a certification fee established by the department in regulation to determine if the exemptions provided for in subsection (A)(3) apply.	M	N	iv	Inherent conflict exists between this section and Section 44-34-110(A)
Health Regulation		Methadone	44-53-740	DHEC shall promulgate regulations necessary to carry out the provisions of this article.	M	N	iv	Regulation 61-93, which includes the regulation of facilities that offer methadone as a treatment option, was adopted pursuant to the Licensing Act, 44-7-110 et seq., and does not address all requirements of this Chapter. The Department is in the process of reviewing the regulation to determine changes that need to be made, to include the requirements of Section 44-53-750 and - 760.
Health Regulation		Methadone	44-53-750	Requires performance of an autopsy upon any person on a methadone program who dies while enrolled in such a program. A report of the autopsy must be filed with DHEC. Requires notification of autopsy requirement prior to admission to a methadone program.	M	N	iv	Regulation 61-93, which includes the regulation of facilities that offer methadone as a treatment option, was adopted pursuant to the Licensing Act, 44-7-110 et seq., and does not address all requirements of this Chapter. The Department is in the process of reviewing the regulation to determine changes that need to be made, to include the requirements of Section 44-53-750.
Health Regulation		Methadone	44-53-760	Requires parental consent prior to admission of a minor to a methadone program, provided that if a court has adjudicated a minor emancipated then that minor may be admitted without parental consent.	M	N	iv	Regulation 61-93, which includes the regulation of facilities that offer methadone as a treatment option, was adopted pursuant to the Licensing Act, 44-7-110 et seq., and does not address all requirements of this Chapter. The Department is in the process of reviewing the regulation to determine changes that need to be made, to include the requirements of Section 44-53-760.
Health Regulation	FSO	Practice of Specializing in Hearing Aids Act	40-25-30(4)	Powers and duties of the Department include: purchasing and maintaining or renting audiometric equipment and other facilities necessary to carry out the examination of applicants.	M	N	iv	The Department has not provided equipment for examinations. The general practice is that the applicant brings their own equipment with them. If requested by an applicant, the Department would have to provide the equipment.
Health Regulation	Certificate of Need	State Health Planning and Development Act	44-5-10	Title of Article.	M	N	iv	Superceded by State Certification of Need and Health Facility Licensure Act.

Health Regulation	Certificate of Need	State Health Planning and Development Act	44-5-20	Definitions.	M	N	iv	Superceded by State Certification of Need and Health Facility Licensure Act.
Health Regulation	Certificate of Need	State Health Planning and Development Act	44-5-40	Development of state program; collection of statistics and other data regarding health planning and development.	M	N	iv	Superceded by State Certification of Need and Health Facility Licensure Act.
Health Regulation	Certificate of Need	State Health Planning and Development Act	44-5-50	Statewide health coordinating council.	M	N	iv	Superceded by State Certification of Need and Health Facility Licensure Act.
Health Regulation	Certificate of Need	State Health Planning and Development Act	44-5-60	Meetings of Council.	M	N	iv	Superceded by State Certification of Need and Health Facility Licensure Act.
Health Regulation	Certificate of Need	State Health Planning and Development Act	44-5-70	Compensation of Council members.	M	N	iv	Superceded by State Certification of Need and Health Facility Licensure Act.
Health Regulation	Certificate of Need	State Health Planning and Development Act	44-5-90	Cooperation of other state departments with state agency.	M	N	iv	Superceded by State Certification of Need and Health Facility Licensure Act.
Health Regulation	Certificate of Need	State Health Planning and Development Act	44-5-100	Adoption of rules and regulations.	M	N	iv	Superceded by State Certification of Need and Health Facility Licensure Act.
Health Regulation	Drug Control	SC Controlled Substance Act	44-53-10	It shall prepare rules and regulations with regard to the proper method of collecting and examining drugs.	M	N	iv	Drug Control does not collect drugs or examine drugs; only for purposes of an evidentiary nature
Health Regulation	Drug Control	SC Controlled Substance Act	44-53-490	Drug Inspectors shall inspect every registrant no less than once every three years	M	N	ii	At the time this act was implemented there were only 1500 registrants. There are over 24,000 registrants today. Based on current staffing / funding we cannot meet this requirement.
Health Regulation	Drug Control	SC Controlled Substance Act	44-53-490	Drug Inspectors shall submit an annual report to the Department and Commision of Alcohol and Drug Abuse specifying the name of the practitioner or the registrant or such exempt persons inspected, the date of inspection and any other violations of this article	M	N	iv	No historical information as to why this has not been done. Violations are typically addressed in an informal, private conference and not subject to disclosure. (Reg. 61-4 Sections 1801-1803). DHEC will begin submitting an annual report to the Director of DAODAS and LLR.

Health Regulation	Drug Control	SC Controlled Substance Act	44-53-710	Gives DHEC exclusive control over methadone pursuant to this article.	M	N	iv	The Drug Control program administers portions of this article, related to the dispensing of methadone. The remaining portions of this article fall under the purview of the Health Licensing program.
Health Regulation	Drug Control	SC Controlled Substance Act	44-53-740	Requires Department to promulgate regulations pursuant to this article.	M	N	iv	Regulation 61-4, Controlled Substances, addresses some of the requirements of this Article, including the Drug Control program's inspection and auditing of drug dispensing. The remaining requirements of this Article fall under the purview of the Health Licensing program.
Health Regulation	N/A	SC Controlled Substance Act	44-53-610 through 660	Controlled Substance Therapeutic Research Program gives DHEC Director authority to distribute marijuana	M	N	iv	Marijuana is a Schedule I substance. Consequently, it is unlawful under both state and federal law to manufacture, distribute, dispense, deliver, purchase, or possess marijuana. This Act would require the Director and the Department to possess and distribute marijuana in contravention of those laws, and provides no immunity from criminal prosecution for doing so.
Health Regulation	N/A	SC Controlled Substance Act	44-53-50	A person may use, sell, manufacture, or distribute for use or sale a cleaning agent that contains greater than zero percent phosphorus by weight but does not exceed eight and seven-tenths percent phosphorus by weight that is a substance excluded from the zero percent phosphorus limitation of this section by regulations adopted by the Department of Health and Environmental Control	M	N	iv	This law is regulated by the EPA.
Environmental Quality Control	Terminal Facility Registration Certificate	Oil and Gas Exploration, Drilling, Transportation and Production Act	48-43-550	DHEC shall from time to time adopt, amend, repeal, and enforce reasonable regulations relating to the cleanup and removal of discharges of pollutants into the waters or onto the coasts.	M	N	i	Emergency Response, certification and other requirements are implemented in other provisions of this Act, or under other DHEC and/ or federal provisions, but no specific regulations have been adopted.
Environmental Quality Control	Air	Pollution Control Act	48-1-200	Any person may appeal an order of the Department within thirty days after filing of the order, to the court of common pleas of the county in which the pollution occurs; the Department must then certify to the court the record in the hearing; upon review, the court shall render judgment and may order or permit further testimony on the merits of the case, in its discretion; appeals from such judgments of the court of common pleas may be taken as in other civil actions.	M	N	iv	This process is superseded by the review process set forth in S.C. Code 44-1-60 and APA
Environmental Quality Control	Hazardous Waste	Hazardous Waste Management Act	44-56-60(a)(1)	To accomplish goals in 44-56-59, requires DHEC to annually report on HW technologies for storage and disposal to allow Legislature to determine whether HW landfill capacity should be reduced	M	N	iv	Invalidated as result of federal court challenges. See Environmental Tech. Council v. S.C, 901 F.Supp. 1026
Environmental Quality Control	Hazardous Waste	Hazardous Waste Management Act	44-56-60(a)(3)	Sets limits on annual rate of land disposal and places limits on out-of-state waste for land disposal	M	N	iv	Invalidated as result of federal court challenges. See Environmental Tech. Council v. S.C, 901 F.Supp. 1026
Environmental Quality Control	Hazardous Waste	Hazardous Waste Management Act	44-56-130 (4) - (6)	Provisions requiring reciprocity for the land disposal of out-of-state HW and requiring interstate or regional agreement to accept out-of-state HW	M	N	iv	Invalidated as result of federal court challenges. See Environmental Tech. Council v. S.C, 901 F.Supp. 1026

Environmental Quality Control	Hazardous Waste	Hazardous Waste Management Act	44-56-140(E)	Required to report violations of Section 140 within 24 hours to the governing body of the county or municipality in which violation occurs.	M	N	iv	Planning to provide county/city management with copies of COs and AOs within 24 hours for hazardous waste violations going forward
Environmental Quality Control	Hazardous Waste	Hazardous Waste Management Act	44-56-160 (C), (D)	Directs fees from land disposal facility to Sumter County where commercial HW land disposal facility is located, and to the Pinewood HW Contingency Fund for the Town of Pinewood	M	N		Pinewood commercial land disposal facility closed in 2000 and no longer generates revenue
Environmental Quality Control	Hazardous Waste	Hazardous Waste Management Act	44-56-160 (C), (D)	Requires portion of fees from commercial land disposal facility to go county where landfill is located, and a portion of the fees to the Town of Pinewood	M	N	iv	Pinewood commercial land disposal facility closed in 2000 and no longer generates revenue
Environmental Quality Control	Hazardous Waste	Hazardous Waste Management Act	44-56-160(F)	Requires fees assessed on disposal at the HW commercial land disposal facility go to various Funds	M	N	iv	Pinewood commercial land disposal facility closed in 2000 and no longer generates revenue for the Funds
Environmental Quality Control	Hazardous Waste	Hazardous Waste Management Act	44-56-163	Creates the Pinewood HW Contingency Fund for the Town of Pinewood and creates the Pinewood Development Fund	M	N	iv	Pinewood commercial land disposal facility closed in 2000 and no longer generates revenue for the Funds
Environmental Quality Control	Hazardous Waste	Hazardous Waste Management Act	44-56-164	Provides for the composition of the Pinewood Development Authority	M	N	iv	Pinewood commercial land disposal facility closed in 2000 and no longer generates revenue for the Funds
Environmental Quality Control	Hazardous Waste	Hazardous Waste Management Act	44-56-165	Requires portion of fees to be used to fund waste minimization activities at DHEC	M	N	iv	Pinewood commercial land disposal facility closed in 2000 and no longer generates revenue for the Funds
Environmental Quality Control	Hazardous Waste	Hazardous Waste Management Act	44-56-175	Provides for the crediting of fees from the commercial land disposal facility to the various Funds created under the Act	M	N	iv	Pinewood commercial land disposal facility closed in 2000 and no longer generates revenue for the Funds
Environmental Quality Control	Hazardous Waste	Hazardous Waste Management Act	44-56-190	Requires DHEC to revise regulations inconsistent with provisions of 44-56-160 through 190	M	N	iv	Invalidated as result of federal court challenges. See Environmental Tech. Council v. S.C, 901 F.Supp. 1026
Environmental Quality Control	Hazardous Waste	Hazardous Waste Management Act	44-56-205	Requires SC facilities to give preference to in-state HW generators for treatment and disposal of HW	M	N	iv	Invalidated as result of federal court challenges. See Environmental Tech. Council v. S.C, 901 F.Supp. 1026

Environmental Quality Control	Brownfields/ Voluntary Cleanup Program	Hazardous Waste Management Act	44-56-760 Article 7; Brownfields/Voluntary Cleanup Program	Program Review; Requires the Department to review the Voluntary Cleanup program beginning in 2010 and report to the General Assembly on the activities of the program and where applicable, make recommendations for any needed changes or improvements.	M	N	iv	While the Responsible Party (RP) contract activity is covered in the annual Report on the HW Contingency Fund (44-56028-180b), the Non Responsible Party (NRP) activity has not been captured. It is proposed that a report will be completed by June 30, 2017 which captures the activities of both the RP and NRP Voluntary Cleanup Programs. Section 44-56-760 does not establish a recurring time-frame to complete or submit this VCP report. However, the goal is to publish this report every 5 years.
Environmental Quality Control	Mining	South Carolina Mining Act	SECTION 48-20-70 PARAGRAPH 10	The Department may not accept an appeal of an operation permit denial more than 30 days after the notice of disapproval has been mailed to the operator as the address shown on his application.	M	N	iv	S.C. Code Section 44-1-60 has superceded these noticing timeframes.
Environmental Quality Control	Mining	South Carolina Mining Act	SECTION 48-20-170	Whenever the department determines the necessity of a bond forfeiture it shall request the Attorney General to initiate forfeiture proceedings against the bond or other security filed. The Department shall give the surety at least 60 days to take corrective action.	M	N	i	DHEC staff and attorneys have been able to procure funds without resort to forfeiture proceedings or referral to the AG's office.
Environmental Quality Control	Solid Waste	Solid Waste Policy and Management Act	SECTION 44-96-140. Recycling programs of state government; state procurement policy; report of the Department of Transportation. (C)	The department shall submit an annual report to the Governor and to the General Assembly reviewing all goods purchased by the State and determining what percentage contain recycled materials. The report must review procurement regulations and identify portions that discriminate against products with recycled content and which are recyclable.	M	N	iv	No system available to track purchases which contain recycled content by state agencies, so percentage purchases cannot be reported. The S.C. Solid Waste Management Annual Report compiled and published by DHEC for the General Assembly reports what information is available from state agencies and universities on their recycling programs and practices.
Environmental Quality Control	Solid Waste	Solid Waste Policy and Management Act	SECTION 44-96-140. Recycling programs of state government; state procurement policy; report of the Department of Transportation. (E)	DHEC, along with all state agencies, shall procure products and materials with recycled content, and products which are recyclable, where practicable. It is the goal of the General Assembly for state and local governmental agencies to reflect a twenty five percent goal in their procurement policies	M	N	iv	No system available to track purchases which contain recycled content by state agencies, so percentage purchases cannot be reported. The S.C. Solid Waste Management Annual Report compiled and published by DHEC for the General Assembly reports what information is available from state agencies and universities on their recycling programs and practices.
Environmental Quality Control	Solid Waste	Solid Waste Policy and Management Act	SECTION 44-96-150. Packaging; plastics. (G)	(G) Not later than five years after this chapter is effective, the department shall make a determination as to the number of beverage containers being sold annually in this State and the percentage that are being recycled. If beverage containers are being recycled at a rate of less than twenty-five percent, the department shall submit a report to the Governor and to the General Assembly making recommendations on incentives, penalties, or both, to increase the recycling rate.	M	N	iv	Data on the number of beverage units sold is considered proprietary information by industry partners, and the Department has been unable to ascertain recycling rates without that information. The S.C. Solid Waste Management Annual Report compiled and published by DHEC for the General Assembly reports recycling rates by commodity (paper, glass, etc.) for the state.
Environmental Quality Control	Solid Waste	Solid Waste Policy and Management Act	SECTION 44-96-150. Packaging; plastics. (G)	(G) Seven years after this chapter is effective, the department shall make another determination as he percentage of containers that are being recycled. If the department determines that one or more categories are being recycled at less than thirty-five percent, the department shall submit a report to the Governor and to the General Assembly making recommendations to increase the recycling rate of that category to at least thirty-five percent. The department may, by regulation, establish a program to obtain and verify the information that is necessary to make the determinations and recommendations required by this subsection.	M	N	iv	Data on the number of beverage units sold is considered proprietary information by industry partners, and the Department has been unable to ascertain recycling rates without that information. The S.C. Solid Waste Management Annual Report compiled and published by DHEC for the General Assembly reports recycling rates by commodity (paper, glass, etc.) for the state.

Environmental Quality Control	Solid Waste	Solid Waste Policy and Management Act	SECTION 44-96-210. Newsprint.(A)	(A) Five years after this chapter is effective, the department shall make a determination as to whether newsprint sold within this State is being recycled at a rate of thirty-five percent or more of the quantity sold within the State. If the department determines that newsprint is being recycled at a rate of less than thirty-five percent, the department shall submit a report to the Governor and to the General Assembly making recommendations on incentives or penalties to increase the recycling percentage of newsprint to at least thirty-five percent within a reasonable period of time.	M	N	iv	Data on the volume of newsprint sold is considered proprietary information by industry partners, and the Department has been unable to ascertain precise recycling rates without that information. The S.C. Solid Waste Management Annual Report compiled and published by DHEC for the General Assembly reports recycling rates by commodity (paper, glass, etc.) for the state.
OCRM	OCRM	Coastal Tidelands and Wetlands Act	48-39-40	Creation of Coastal Zone Mgt Appellate Panel.	M	N	iv	Conflict with existing ALC procedures
OCRM	OCRM	Coastal Tidelands and Wetlands Act	48-39-45	Coastal Zone Mgt Advisory Council	M	N	iv	General Assembly jhas not appointed members.
Environmental Quality Control	Water/Sewer Grants	State Grants for Water and Sewer Authorities, Districts or Systems	6-19-30	The Department shall administer grants for intermission to various water and sewer systems.	M	N	iii	Funding for the grants to be administered under this section has not been provided.
Environmental Quality Control	Water/Sewer Grants	State Grants for Water and Sewer Authorities, Districts or Systems	6-19-40	The Department shall promulgate rules and regulations for processing all State grants appropriated under the State Grants for Water and Sewer Authorities, Districts or Systems.	M	N	iii	Funding for the grants to be administered under this section has not been provided.
Environmental Quality Control	Catawba Indian Sewage Systems	Catawba Indians Claims Settlement Act	27-16-90	Prior to a tribe's comprehensive planning process for reservation expansion, the Department shall consult with the Tribe about the location of future sewage treatment facilities that may serve the expansion areas.	M	N	iv	Circumstances don't require action because tribe has never proposed facilities
Environmental Quality Control	Public Drinking Water	State Safe Drinking Water Act	44-55-120 (C)	Establishment of a Safe Drinking Water Advisory Committee for the pupose of advising and providing an annual review to the Department and the General Assembly on the fee schedule and use of the revenues deposited in the Drinking Water Trust Fund.	M	N	iv	Requires action by the Governor to appoint committee members. We consult with the AWWA Water Utility Council and South Carolina Rural Water Association as needed to obtain advice.
Environmental Quality Control	Waste water/Stormwater/Ag/Water Quality	Pollution Control Act	48-1-50(1)	Authorizes Department to hold public hearings, compel attendance of witnesses, and make findings of fact and determinations and assess penalties prescribed under the statute.	M	N	iv	APA SECTION 1-23-310 determines adjudication
Environmental Quality Control	Waste water/Stormwater/Water Quality/Ag	Pollution Control Act	48-1-170	Requires the Department to make a record of all quasi-judicial decisions and secure prompt publication; specifies required contents of such decisions and chronological numbering; a complete transcript of such hearings shall be made upon request of any person concerned.	M	N	iv	APA SECTION 1-23-310 determines adjudication

Environmental Quality Control	Waste water/Stormwater/Water Quality/Ag	Pollution Control Act	48-1-180	Authorizes the Department, executive director, or any employee or Department agent to administer oaths, examine witnesses, and issue notices or hearings and subpoenas with respect to hearings; witnesses shall receive the same fees and mileage as in civil actions.	M	N	iv	APA SECTION 1-23-310 determines adjudication
Environmental Quality Control	Waste water/Stormwater/Water Quality/Ag	Pollution Control Act	48-1-200	Any person may appeal an order of the Department within thirty days after filing of the order, to the court of common pleas of the county in which the pollution occurs; the Department must then certify to the court the record in the hearing; upon review, the court shall render judgment and may order or permit further testimony on the merits of the case, in its discretion; appeals from such judgments of the court of common pleas may be taken as in other civil actions.	M	N	iv	APA SECTION 1-23-310 determines adjudication
Environmental Quality Control	Stormwater	Stormwater Management and Sediment Reduction Act	§ 48-14-95(B)	Implementing agency may post stop work orders and shall notify the person responsible for land disturbing activity of non-compliance	M	N	iv	Available as additional tool to supplement PCA enforcement, and will be utilized where provision is triggered.
Environmental Quality Control	Dam Safety	Dams and Reservoir Safety Act	§ 49-11-230(B)	If water is to be released during the construction, repair, or removal, the department shall specify the maximum discharge rate allowable to avoid endangering or causing injury to downstream owners.	M	N	iv	Current permits require owner's professional engineer to establish safe water level on dam specific basis rather than specific discharge rate.
Environmental Quality Control	Dam Safety	Dams and Reservoir Safety Act	§ 49-11-260(E)	Disposition of fines	M	N	iv	Special account for dam safety education has never been created but will be created for future penalty collection.
Environmental Quality Control	Groundwater Permitting	Groundwater Use and reporting Act	49-5-60(B)	(B) After notice and public hearing, the department shall coordinate the affected governing bodies and groundwater withdrawers to develop a groundwater management plan to achieve goals and objectives stated in Section 49-5-20. In those areas where the affected governing bodies and withdrawers are unable to develop a plan, the department shall take action to develop the plan. The plan must be approved by the board before the department may issue groundwater withdrawal permits for the area.	M	N	iv	Groundwater management plans currently being developed

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Part III: Discretionary Statutes

1. Division	Program	Name of Act	Statutory Citation	Short Description	Mandatory or Discretionary (M or D)	Implemented (Y or N)	If not Implemented, why? i - Management Decision; ii - Lack of Personnel; iii - Lack of Funding; iv - Other	If "i" or "iv" explain
Public Health	Client Services	Department may divide the state into health districts and establish district advisory boards of health which will consist of representatives from each county in the district	44-1-130	DHEC may divide the State into health districts and establish in these districts advisory boards of health which shall consist of representatives from each county in the district. District advisory boards of health shall be subject to the supervisory and advisory control of the Department. District advisory boards are charged with the duty of advising the district medical director or administrator in all matters of sanitary interest and scientific importance bearing upon the protection of the public health.	D	N	iv	DHEC is organized into four districts, which are named "health regions", as a cost savings measure. DHEC has not established district boards of health for its regions.
Public Health	Home Health	Department may provide home health services	44-1-200	Allows DHEC to deliver home health services.	D	N	iv	Transferred licenses to a private entity in 2015.
Public Health	Healthy Aging	Osteoporosis Prevention and Treatment Education Act	SC Code Sections 44-125-10 through 44-125-40	The Act establishes the Osteoporosis Education Fund in the State Treasury, separate and distinct from the general fund, to be administered by the Department of Health and Environmental Control for the purpose of enhancing awareness and educating the general public about osteoporosis. DHEC, in carrying out its responsibilities under this chapter, and if funds are available and received from the Osteoporosis Education Fund, may: employ staff to implement the program established by Section 44-125-30, provide training for staff, work to improve the capacity of community-based services available to osteoporosis patients, work with others, and identify programs.	D	N	iii	
Public Health	Cancer	Central Cancer Registry Act	SC Code Section 44-35-70	DHEC may, to the extent of and within the available funds which may be provided, acquire laboratories, hospitals, or other property, either real or personal, by gift, purchase, devise or otherwise, as the department considers advisable to afford proper treatment and care to cancer patients in this State and to carry out the intent and purpose of this chapter.	D	N	iii	
Public Health	Children's Health	Early periodic screening, diagnosis, and treatment screening; referral for assistive technology	44-1-260	Clarifies that a provider discovering a potential need during an EPSDT (Early and Periodic Screening, Diagnosis, and Treatment) exam for assistive technology (device or service that can increase, maintain, or improve function for someone with a disability) can refer for an evaluation.	D	N	iv	This statute allows EPSDT providers to refer Medicaid clients for an evaluation. DHEC is no longer an EPSDT provider.
Public Health	STD/HIV	Criminal penalty	44-29-140	Any person who violates any of the provisions of Sections 44-29-60 to 44-29-140, other than Section 44-29-120, or any regulation made by the Department of Health and Environmental Control pursuant to the authority granted by law, or fails or refuses to obey any lawful order issued by any state, county, or municipal health officer, shall be guilty of a crime.	D	N	iv	State or local law enforcement would be responsible for pursuing criminal charges; DHEC has not issued monetary penalties for violation of orders relating to STD/HIV.

Health Regulation	Trauma	Stroke System of Care Act of 2011	44-61-690	Provides the Department with authority to promulgate regulations. Provides the Department's duties pursuant to the Act are contingent upon adequate funding to cover the Department's operating and administrative costs and upon the promulgation of regulations.	D	N	iv	The Department is analyzing the funds attributed to the Stroke Program and the feasibility of promulgating regulation.
Health Regulation	Emergency Medical Services	Emergency Medical Services Do Not Resuscitate Order Act	44-78-30(B)	Provides that the Department may approve a do not resuscitate bracelet if conditions are met.	D	N	iv	The Department has approved a template for what the bracelet must contain. The process is now at the stage of recognizing and approving a vendor or vendors. Once a vendor or vendors are decided on, the Department will disseminate to the providers what bracelets are acceptable and what they must contain.
Health Regulation	Emergency Medical Services	South Carolina Overdose Prevention Act	44-130-60(B)	Requires first responders comply with all applicable requirements for possession, administration, and disposal of the opioid antidote and administration device and provides that the Department may promulgate regulations implementing this section.	D	N		DHEC has no plans to develop regulations for this program. The program is currently being administered well without the need of regulation. DHEC Bureau of EMS offers training and educational materials. To date approximately 1500 officers have been trained statewide in over 40 police departments.
Health Regulation	Certificate of Need	State Health Planning and Development Act	44-5-80	Charge for cost of reproduction and handling of plans.	D	N	iv	Superceded by State Certification of Need and Health Facility Licensure Act.
Health Regulation	Drug Control	SC Controlled Substance Act	44-53-480 (c)	Department may contract with the Board of Pharmacy to enforce CSA	D	N	iv	DHEC has elected not to contract with the Board of Pharmacy (BOP). BOP inspectors are not certified state law enforcement officers, and controlled substance inspections are not limited to pharmacies.
Health Regulation	Prescription Monitoring	SC Controlled Substance Act	44-53-1670	May promulgate regulations related to PMP	D	N	iv	We are planning on promulgating regulations related to the PMP and evaluating regulatory content. Awaiting outcome of statutory changes prior to doing so, to combine those efforts. The program is currently operational without regulations.
Health Regulation	Drug Control	SC Controlled Substance Act	44-53-350	Controlled substances in Schedules I and II shall be distributed by a registrant to another registrant only pursuant to an order form prescribed by the Department. Compliance with the provisions of Federal law respecting order forms shall be deemed compliance with this section.	D	N	iv	The order form utilized for Schedule I and II is a DEA 222 form. Nothing mandated on the state level other than compliance with the federal standard. DHEC elected not to develop a separate form since the DEA 222 form is used.
Environmental Quality Control	N/A	Health	44-1-140(6)	(6) For the control of disease bearing insects, including impounding waters.	D	N	iii	
Environmental Quality Control	N/A	Health	44-1-140(9)	(9) For regulation of water and air humidifiers	D	N	i	Outdated provision
Environmental Quality Control	N/A	Health	44-1-140(13)	(13) For alteration of safety material glazing standards and defining of additional structural locations as hazardous areas	D	N	i	Outdated provision

Environmental Quality Control	N/A	Health	44-1-140(1)	(1) Sanitation and disinfection of vehicles, convict camps, penitentiaries, jails, schools, other public facilities	D	N	i	Outdated provision
Environmental Quality Control	Air	Pollution Control Act	48-1-190	Upon application of the Department, the court of common pleas has jurisdiction to issue an order requiring the appearance of a person to testify or produce evidence, where the person has refused to obey a notice of hearing or subpoena.	D	N	iv	Need to exercise this authority has not arisen; BAQ relies on review process set forth in S.C. Code 44-1-60 and APA
Environmental Quality Control	Air	Pollution Control Act	48-1-310	Authorizes counties to establish, administer, and enforce a local air pollution control program subject to Department approval; such programs to comport with Department standards and procedures; such programs subject to periodic review by the Department, which shall have the power to invalidate the program if found unsatisfactory.	D	N	iv	No local air pollution control programs presently exist in S.C.
Environmental Quality Control	Air	Idling Restrictions for Commercial Diesel Vehicles	56-35-60	State Treasurer to establish a Diesel Idling Reduction Fund to be used to cover costs associated with a DHEC idling awareness program; DHEC, as funds become available, may develop and operate an idling awareness program that promotes the benefits of idling reductions.	D	N	iii	To date, no fines have been assessed by the Department of Public Safety, and DHEC has not received any funding for idling awareness programs.
Environmental Quality Control	Air	Idling Restrictions for Commercial Diesel Vehicles	56-35-80	Authorizes DHEC to promulgate regulations to administer and enforce the idling law.	D	N	i	Management determined that the statute provided sufficient language to administer and enforce the provisions without the need to create a separate regulation.
Environmental Quality Control	Mining	South Carolina Mining Act	SECTION 48-20-290	The Department may apply for grants.	D	N	iii	Federal grants related to Mining Act requirements are not available.
Environmental Quality Control	Solid Waste	Solid Waste Policy and Management Act	SECTION 44-96-60. (B)	The department may establish procedures and promulgate regulations necessary to obtain recycling data. These procedures may include registration, annual reporting and county of generation.	D	N	i	The Department has partnered with the state's leading recyclers (Sonoco and Pratt Industries) to obtain the information necessary for compilation of the S.C. Solid Waste Management Annual Report without promulgation of additional regulatory requirements.
Environmental Quality Control	Solid Waste	Solid Waste Policy and Management Act	SECTION 44-96-80 (C)	The department may reduce or modify the statewide goals as they apply to a county or region to account for industrial growth or other good cause shown. However, reduction or modification must not result in a failure to meet the recycling and reduction goals on a statewide basis as established in Section 44-96-50.	D	N	i	No county or regional recycling goals have required reduction for good cause since this program was established.
Environmental Quality Control	Solid Waste	Solid Waste Policy and Management Act	SECTION 44-96-210. Newsprint.(A)[con't]	The department may, by regulation, establish a program to obtain and verify the information necessary to make the determination and recommendations required by this section.	D	N	iv	Data on the volume of newsprint sold is considered proprietary information by industry partners, and the Department has been unable to ascertain precise recycling rates without that information. The S.C. Solid Waste Management Annual Report compiled and published by DHEC for the General Assembly reports recycling rates by commodity (paper, glass, etc.) for the state.
Environmental Quality Control	Solid Waste	Solid Waste Policy and Management Act	SECTION 44-96-260 (3)	SECTION 44 96 260. Powers and duties of the department. The Department is authorized to: (3) establish, by regulation, and collect reasonable registration and permit fees to assist in defraying the costs of the department's solid waste regulatory programs.	D	N	i	

Environmental Quality Control	Water/Sewer Grants	State Grants for Water and Sewer Authorities, Districts or Systems	6-19-35	The Department may delegate any agency, including itself, to administer or supervise any portion of a project funded under the South Carolina Rural Water and Sewer Act.	D	N	iii	
Environmental Quality Control	Waste water	Pollution Control Act	48-1-50(25)	Authorizes Department to issue orders prohibiting any political entity from issuing building permits when the entity has been ordered to correct a condition which has caused or is causing pollution; no such order shall be issued until the State is capable of participating in federal, state, and local cost-sharing arrangements for municipal waste treatment facilities as set forth in the Clean Water Restoration Act of 1966.	D	N	iv	No cost sharing agreement in place to implement provision
Environmental Quality Control	Stormwater	Stormwater Management and Sediment Reduction Act	§ 48-14-130	Establishment of Designated Watersheds with additional stormwater quantity and quality requirements.	D	N	iv	Pursuant to storm water regulations, designated watershed process is triggered by request of local governments . At this time, no designated watershed process has been initiated by any local government. This authority remains in place for future use as needed.
Environmental Quality Control	Stormwater	Stormwater Management and Sediment Reduction Act	§ 48-14-140	Authority to assess civil penalties	D	N	iv	Available as additional tool to supplement PCA enforcement in cases as appropriate.
Environmental Quality Control	Stormwater	Stormwater Management and Sediment Reduction Act	§ 48-14-150(A)	Department may seek injunctive relief in circuit court to seek action due to an actual or potential violation.	D	N	iv	Available as additional tool to supplement PCA enforcement in cases as appropriate.
Environmental Quality Control	Hazardous Waste	Hazardous Waste Management Act	44-56-59	Legislative Findings re: existing commercial HW land disposal facility (Pinewood); available capacity; restrictions on importation of HW; in-state HW preference; declaration that landfilling is least desirable alternative	D	N	iv	Invalidated as result of legal challenges to statutory provisions, executive orders and regulations attempting to limit importation of hazardous waste for land disposal in SC

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Part IV: Mandatory and Discretionary Statutes Not Implemented Due to Lack of Funding

1. Division	Program	Name of Act	Statutory Citation	Short Description	Mandatory or Discretionary (M or D)	Implemented or N)	If not Implemented, why? i - Management Decision; ii-Lack of Personnel; iii - Lack of Funding; iv - Other	Additional Notes
Public Health	Healthy Aging	Osteoporosis Prevention and Treatment Education Act	SC Code Sections 44-125-10 through 44-125-40	The Act establishes the Osteoporosis Education Fund in the State Treasury, separate and distinct from the general fund, to be administered by the Department of Health and Environmental Control for the purpose of enhancing awareness and educating the general public about osteoporosis. DHEC, in carrying out its responsibilities under this chapter, and if funds are available and received from the Osteoporosis Education Fund, may: employ staff to implement the program established by Section 44-125-30, provide training for staff, work to improve the capacity of community-based services available to osteoporosis patients, work with others, and identify programs.	D	N	iii	
Public Health	Tobacco	SC Youth Smoking Prevention Act	SC Code Sections 44-128-10 through -50	Outlines the provisions of the SC Youth Smoking Prevention Act, funded by the Master Settlement Agreement, including the Youth Smoking Prevention Plan, reporting requirements, funding, and make-up of the Advisory Commission.	M	N	iii	DHEC receives funding from the cigarette tax to support its youth tobacco prevention program. DHEC works with the SC Tobacco-Free Collaborative.
Public Health	Cancer	Central Cancer Registry Act	SC Code Section 44-35-70	DHEC may, to the extent of and within the available funds which may be provided, acquire laboratories, hospitals, or other property, either real or personal, by gift, purchase, devise or otherwise, as the department considers advisable to afford proper treatment and care to cancer patients in this State and to carry out the intent and purpose of this chapter.	D	N	iii	
Public Health	Children's Health	Head lice - voucher for treatment products	44-29-195	DHEC shall make available to eligible families, through the county health departments, products or vouchers for products for the treatment of pediculosis. For purposes of this subsection, a family is eligible if a child in the family is a student in the public school system and the child receives Medicaid or free or reduced school meals.	M	N	iii	Families access these medications through their providers or over the-counter. DHEC no longer provides primary care. Demand for these products decreased to the point that the medications were expiring before they could be given away.
Public Health	Oral Health	Community Oral Health Coordinator	44-8-10 - 60	The statute outlines a community dental health program for public school students for which implementation of the provisions of the chapter is contingent upon the appropriation of adequate funding.	M	N	iii	

Public Health	Oral Health	Dentists, Dental Hygienists, and Dental Technicians	40-15-110 (E)	DHEC shall target services in a public health setting to under-served populations. Dental assistants may perform oral screenings utilizing the DHEC approved screening system in school and public health settings under direction of the DHEC public health dental program. Dental assistants employed within or contracted through the public health system may assist in the delivery of public health dental program services as defined in this section. Program activities are performed under the direction of the Department of Health and Environmental Control State Dental Coordinator or the department's designee but do not require that the coordinator be present when services are performed.	M	N	iii	
Public Health	Injury and Violence Prevention	Medical Advisory Board	56-1-221	Medical Advisory Board related to Drivers Licenses - There is created an advisory board composed of 13 members. One member must be selected by the Commissioner of the Department of Health and Environmental Control from his staff, ten members must be appointed by the South Carolina Medical Association, and two members must be appointed by the South Carolina Optometric Association. The member selected by the Commissioner of the Department of Health and Environmental Control must be the administrative officer of the advisory board. To the maximum extent possible, the members of the board appointed must be representative of the disciplines of the medical and optometric community treating the mental or physical disabilities that may affect the safe operation of motor vehicles.	M	N	iii	
Administration	Administration	Medical and Dental Scholarship Fund	59-111-510 et seq.	DHEC shall administer a fund to be known as "The South Carolina Medical and Dental Loan Fund" with sums as may be appropriated by the General Assembly.	M	N	iii	
Health Regulation	Trauma	Stroke System of Care Act of 2011	44-61-670 (A)	Provides for the duties of the Department, in consult with the Stroke System of Care Advisory Council, including establishing the Stroke Registry Task Force, which shall maintain a stroke registry.	M	N	iii	The Department's duties under this Act are contingent upon adequate funding. We have had limited funding up until now. We are currently requesting funds to further implementation. Staff and the Task Force are in the process of implementing the Stroke Registry.
Environmental Quality Control	N/A	Health	44-1-140(6)	(6) For the control of disease bearing insects, including impounding waters.	D	N	iii	
Environmental Quality Control	Air	Idling Restrictions for Commercial Diesel Vehicles	56-35-60	State Treasurer to establish a Diesel Idling Reduction Fund to be used to cover costs associated with a DHEC idling awareness program; DHEC, as funds become available, may develop and operate an idling awareness program that promotes the benefits of idling reductions.	D	N	iii	To date, no fines have been assessed by the Department of Public Safety, and DHEC has not received any funding for idling awareness programs.
Environmental Quality Control	Mining	South Carolina Mining Act	SECTION 48-20-290	The Department may apply for grants.	D	N	iii	Federal grants related to Mining Act requirements are not available.

Environmental Quality Control	Water/Sewer Grants	State Grants for Water and Sewer Authorities, Districts or Systems	6-19-30	The Department shall administer grants for intermission to various water and sewer systems.	M	N	iii	Funding for the grants to be administered under this section has not been provided.
Environmental Quality Control	Water/Sewer Grants	State Grants for Water and Sewer Authorities, Districts or Systems	6-19-35	The Department may delegate any agency, including itself, to administer or supervise any portion of a project funded under the South Carolina Rural Water and Sewer Act.	D	N	iii	
Environmental Quality Control	Water/Sewer Grants	State Grants for Water and Sewer Authorities, Districts or Systems	6-19-40	The Department shall promulgate rules and regulations for processing all State grants appropriated under the State Grants for Water and Sewer Authorities, Districts or Systems.	M	N	iii	Funding for the grants to be administered under this section has not been provided.

Agency-Wide

Department of Health and Environmental Control

Law Recommendation #1.2

- (a) Law:
S.C. Code § 44-1-130, "Department of Health and Environmental Control"
- (b) Summary of Current Statutory Requirement:
Chapter 1 of Title 44 creates The Department of Health and Environmental Control ("DHEC" or the "Department"), and enumerates the Department's responsibilities and powers. This section establishes Health Districts and District Advisory Boards.
- (c) Recommendation and Rationale for Recommendation:
Recommended change for consistency with current science, terminology, and/or practices.
- Eliminate any reference to "District Advisory Boards of Health," as they no longer exist
 - Change all mention of "Districts" to "Regions," as that is now the terminology used by DHEC
 - DHEC suggests the addition of language that the health "regions" shall be led by a Regional Health Director who reports, either directly or indirectly, to the DHEC Director
- (d) Other Agencies Impacted:
- None
- (e) Notes:
- Identified in the agency's gap analysis

Law Recommendation #2.1

- (a) Law: S.C. Code Sections 44-1-60(E)(1) and (E)(2)
- (b) Summary of current statutory requirement:
These provisions address notice of decisions issued by the Department and the time at which a staff decision becomes the Department's final agency decision.
- (c) Recommendation and Rationale for Recommendation:
Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)
- In light of the upcoming launch of e-permitting systems and the general prevalence and efficiency of electronic mail, DHEC recommends clarification of the statute on the availability of email notice, as well as corresponding clarification regarding the time at which an emailed decision becomes the final agency decision of the Department
- (d) Other Agencies Impacted:
- None

Agency-Wide

Catawba Health District

Law Recommendation #1.9

- (a) Law: S.C. Code §§ 44-3-110 through -140, “Catawba Health District”
- (b) Summary of Current Statutory Requirement: The statutory sections listed above establish and organize the “Catawba Health District,” which includes Chester, Lancaster, and York Counties.
- (c) Recommendation and Rationale for Recommendation:
Recommended change for consistency with current science, terminology, and/or practices.
 - DHEC recommends deleting S.C. Code §§ 44-3-110 through -140
 - These statutory sections are no longer necessary due to the fact that the “Catawba Health District” no longer exists. The counties within the former “Catawba Health District” are now served by the Midlands Regional Office for Public Health
- (d) Other Agencies Impacted:
 - None
- (e) Notes:
 - Identified in the agency’s gap analysis

Environmental Affairs

Rabies Control Act

Law Recommendation # 1.1

(a) Law:

S.C. Code Section 47-5-10 through 210, "Rabies Control Act."

(b) Summary of current statutory requirement:

DHEC implements and enforces the "Rabies Control Act," which sets forth requirements and authorizes actions to control the spread of rabies in the state. Topics in the Act range from vaccinations, quarantine, examination and destruction of animals, reporting to and the investigation of animal bite cases, recommendations for post exposure prophylaxis, magistrate's court penalties for failure to comply with the requirements of the Act.

(c) Recommendation and Rationale for Recommendation:

Recommended change for consistency with current science, terminology, and/or practices.

Federal animal welfare requirements have changed and national veterinarian practice standards have been updated to be more flexible than the Act allows. Also, based upon the Department's experiences in enforcing the Act, definitions and other sections should be clarified and expanded to make the intent of the Act more clear and specific. The Department proposes an extensive rewrite to address and modernize all topics in the Act DHEC implements and enforces the "Rabies Control Act," which sets forth requirements and authorizes actions to control the spread of rabies in the state. Topics in the Act range from vaccinations, quarantine, examination and destruction of animals, reporting to and the investigation of animal bite cases, recommendations for post exposure prophylaxis, magistrate's court penalties for failure to comply with the requirements of the Act including the following:

- To remain more current with the best veterinarian scientific practices, including allowing for the use of the most recent Compendium of Animal Rabies Prevention and Control, produced by the National Association of State Public Health Veterinarians, Inc. for establishing quarantine and animal vaccination protocols;
- Allows for a veterinarian with consent of the owner to make vaccination decisions that are in the best interest of a pet that is health compromised;
- Clarify the language to address non-bite exposures that meet the definition of saliva or other potentially infectious material from a rabid animal being introduced into fresh, open cuts or mucous membranes as described in the CDC ACIP (Advisory Committee on Immunization Practices) recommendations;
- Incorporate a monetary penalty to simplify and incentivize compliance with the vaccination requirements of the Act;
- Allow the Department to designate other representatives such as animal control officers and veterinarians to issue quarantines and monitor animals during quarantine. This will prevent duplication of services in those cases where bite exposures are reported to these representatives or the animals are located at these facilities;

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- Adds a provision that clarifies the process for pet owners to self-quarantine pets that are current on rabies vaccination when the owner or family member is the exposed person;
- Address the safety of Department employees and Department-designated representatives by requiring restraint of animals when observation or examination is needed and have penalties for failure to restrain an animal;
- Remove unnecessary and outdated requirements related to tags and signage; and
- Re-organize the section related to quarantine, examination and destruction of biting or attacking animals to provide clear directives for each incident.

(d) Other Agencies Impacted:

- South Carolina Department of Natural Resources
- Clemson University Livestock Poultry Health
- Any other state or federal agencies engaged in similar efforts to combat diseases communicable from animal to man.
- Local animal control and law enforcement

(e) Notes:

Stakeholders: Two stakeholder meetings are proposed to be held in Columbia during the months of August and September. One would target animal care organizations and animal care providers, the other would be for law enforcement agencies, county officials and health care providers, including:

- SC Association of Veterinarians
- SC Association of Counties
- Animal Control organizations
- Animal Shelters and Humane organizations
- Law Enforcement agencies
- Health Care providers (Pediatricians/Emergency/Instant care clinics)

Environmental Affairs

Dam and Reservoir Safety Act

Law Recommendation #2.2

- (a) Law:
S.C. Code Section 49-11-110, et seq.
- (b) Summary of current statutory requirement:
Establishes Dam and Reservoir Safety Act, grants Department authority to inspect dams, issue orders and permits for maintenance and repair of dams, and defines owners' responsibilities for dams.
- (c) Recommendation and Rationale for Recommendation:
In our PER Report, DHEC made recommendations to amend the Dams and Reservoirs Safety Act. The recommendations were provided and considered in development of H.3218 which amends the Dams and Reservoirs Safety Act. H.3218 received third reading in the House on February 2, 2017 and was introduced in the Senate on February 7, 2017. **Therefore, DHEC is removing these recommendations from its comprehensive list of law recommendations to the LOC.**

Environmental Affairs

Solid Waste Policy and Management Act

Law Recommendation #2.3

(a) Law:

S.C. Code Section 44-96-10 et seq., The South Carolina Solid Waste Policy and Management Act

(b) Summary of current statutory requirement:

The Solid Waste Policy and Management Act establishes standards for the management of solid waste, and authorizes the Department to regulate and permit solid waste management facilities. The Act establishes goals for the State in waste reduction and recycling, and requires local and state solid waste management planning.

(c) Recommendation and Rationale for Recommendation:

Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)

The Solid Waste Policy and Management Act has not been revised substantially since it became effective in 1991, despite the evolution of industry standards and practices, and other factors that impact the program.

The program is proposing four (4) major changes to the Act in addition to minor edits and clarifications that have been identified since the original promulgation. The 4 major changes are summarized as follows:

Solid Waste Emergency Fund

The S.C. Inspector General identified as a weakness in the solid waste management program the fact that there are currently no funding mechanisms available to the Department to use for emergency actions to address environmental problems caused from the management or mismanagement of solid waste.

- The Department proposes taking 2.5% of the annual receipts from the lead-acid battery fees, the appliance fees, the waste tire fees and the motor oil fee to establish an emergency fund. Deposits would be made until the emergency fund reaches \$1.5 million.
- Based on current revenue projections, about \$195,000 would be diverted to the fund annually, and the account would be fully funded after slightly more than 7 ½ years.
- The 2.5% annual funding rate was proposed by the stakeholder workgroup to minimize the impact on available grant funding for local government recycling programs.
- The proposed change authorizes the Department to recover costs from responsible parties to replenish the fund.

Construction and Demolition Debris

Large nuisance sites have been created by sham recyclers of construction and demolition debris who claim they are exempt from permitting requirements because they are processing what they consider to be recovered material. By accepting mixed material construction and demolition debris, these sham recyclers are able to meet the recovered material processing requirement of recycling 75% by weight by processing mostly concrete while allowing other construction and demolition debris to accumulate. These accumulated materials cause risk to human health and the environment.

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The proposed changes to the Solid Waste Policy and Management Act would:

- Require a facility that processes construction and demolition debris to be registered with the Department and obtain a solid waste processing permit.
 - Only construction and demolition debris processing facilities that accept material that has been sorted by material type and recycle at least 75% of each separated material type would be exempt from obtaining a permit.

Zoning

As interpreted by judicial ruling of The Supreme Court of South Carolina, the Department is charged with making zoning determinations with respect to city and county zoning ordinances during the process of issuing solid waste facility permits. Prior to the judicial ruling, the Department allowed local governments to issue letters of consistency in regards to whether facilities seeking a permit would be in compliance with local plans, zoning and land use ordinances. The Supreme Court ruling determined that this delegation of authority was impermissible and that the Department itself must determine if a solid waste facility would be consistent with zoning and land use ordinances of the affected local government.

- The proposed change to the statute removes the requirement that the Department perform a review of local zoning and land-use ordinances prior to issuing a solid waste management facility permit.
- By removing this language, a facility seeking a permit would provide to the department proof of compliance with local land use and zoning ordinances with its permit application.

Demonstration of Need (DON)

The statute currently states that no permit to construct or expand any solid waste management facility may be issued until a demonstration of need (DON) is made. Therefore, DON applies to all permitted solid waste management facilities. In developing the current DON regulation, however, the Department addressed only commercial Class Two solid waste landfills, commercial Class Three solid waste landfills, commercial solid waste incinerators, and commercial solid waste processing facilities that process waste destined for disposal at Class Three solid waste landfills.

- The proposed change would clarify that “Need” be demonstrated as required by regulation only.
- The existing regulation would serve to identify those facilities which must demonstrate need: commercial Class Two solid waste landfills, commercial Class Three solid waste landfills, commercial solid waste incinerators, and commercial solid waste processing facilities that process waste destined for disposal at Class Three solid waste landfills.

(d) Other agencies impacted:

- None

Environmental Affairs

Solid Waste Policy and Management Act, continued

Law Recommendation #2.4

(a) Law:

S.C. Code Ann., Section 44-96-170. Waste Tires. The South Carolina Solid Waste Policy and Management Act

(b) Summary of current statutory requirement:

The Solid Waste Act establishes standards for the management of waste tires, including the collection and distribution of a \$2 advanced recycling fee. The Act authorizes the Department to promulgate regulations addressing the collection, transportation, processing, and disposal of waste tires.

(c) Recommendation and Rationale for Recommendation:

Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)

Despite the Solid Waste Act and regulations promulgated pursuant to the Act, the illegal dumping and accumulation of waste tires continues to be problematic. Therefore, changes to the Waste Tire statute are needed in order to address these issues.

Conceptually, issues for consideration include, but are not limited to:

- The distribution of the waste tire fee;
- Methods for encouraging a more robust waste tire recycling industry; and
- Language that will aid in the ceasing, prevention, or diminishment of illegal dumping and accumulation of waste tires.

(d) Other agencies impacted:

- South Carolina Department of Revenue

Law Recommendation #2.5

(a) Law:

S.C. Code Section 44-56-140 E of the S.C. Hazardous Waste Management Act

(b) Summary of Current Statutory Requirement:

Requires DHEC to report any violations of the Hazardous Waste Management Act to the governing body of the county or city where the violation occurred within 24 hours.

(c) Recommendation and Rationale for Recommendation:

Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)

- Delete – This reporting requirement is not implemented because it is difficult and impractical to notify local government of *any* violation of the Act within 24 hours.
 - Most violations are identified through inspections, reporting, or complaint investigations, and are alleged violations until they are enforced through the administrative enforcement process.
 - If the violation presents an imminent or substantial endangerment or triggers an emergency response action, the Department notifies and works with local officials. The regional offices also work closely with local officials.

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(d) Other Agencies Impacted:

- Local counties and municipalities, however local governments have not been receiving and do not currently receive these reports.

(e) Notes:

- Identified in the agency's gap analysis

Law Recommendation #2.6

(a) Law:

Article 9, S.C. Code Sections 44-56-810 through 840, of the S.C. Hazardous Waste Management Act

(b) Summary of Current Statutory Requirement:

Creates the Hazardous Waste Management Research Fund, funded by a portion of fees from generators disposing of hazardous waste at the Pinewood commercial hazardous waste land disposal facility; creates a Select Oversight Committee to oversee expenditures of the funds.

(c) Recommendation and Rationale for Recommendation:

Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)

- Delete – The Pinewood commercial hazardous waste facility was closed in 2000 and no longer accepts hazardous waste for land disposal.
 - Therefore, fees are no longer generated by disposal activities at the Site and there is no funding source for the Hazardous Waste Management Research Fund.
 - The Select Oversight Committee was created to oversee expenditures from the funds, but has not been active.

(d) Other Agencies Impacted:

- The South Carolina Universities Research and Education Foundation; however, the research program has not been active due to the lack of funding.
- The Governor and General Assembly because they have appointments to the Hazardous Waste Select Oversight Committee; however, this Committee has not been active. This Committee is also directed under Section 44-56-180 to approve use of Contingency Fund monies for personnel and operating costs associated with DHEC response actions at uncontrolled and abandoned sites.

Environmental Affairs

S.C. Hazardous Waste Management Act, continued

Law Recommendation #2.7

(a) Law:

S.C. Code Sections 44-56-160, 163, 164, 165, 170, 175, 180, 190, and 510 of the S.C. Hazardous Waste Management Act

(b) Summary of Current Statutory Requirement:

These sections collectively relate to fee provisions for in-state and out-of-state hazardous waste generators disposing of hazardous waste at the Pinewood commercial hazardous waste land disposal facility (the “Pinewood fees”), and the creation of various funds for use of the Pinewood fees for various purposes. The Pinewood facility was closed in 2000 and no longer accepts hazardous waste for disposal.

(c) Recommendation and Rationale for Recommendation:

Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)

- Section 44-56-160 should be revised as follows:
 - 160(A) should be kept as it creates the Hazardous Waste Contingency Fund;
 - 160(B) through (F) should be deleted as these provisions allocate percentages of the Pinewood fees to various Funds that are no longer active or funded; and
 - 160(G) should be kept as it allows interest to be credited to the Hazardous Waste Contingency Fund; a reference to Section 44-56-215 should be added to this section as the annual generator fee in Section 44-56-215 is also credited to the Hazardous Waste Contingency Fund.
- Sections 44-56-163, 44-56-164, and 44-56-165 should be deleted as the Funds and funding source are no longer active or available.
- Section 44-56-170 should be revised to:
 - Retain applicable reporting requirements for generators in (A) and (B);
 - Delete the in-state generator Pinewood fee in (C);
 - Retain the storage fee in (D);
 - Delete the out-of-state Pinewood fee in (E); and
 - Retain the incinerator fee in (F) and revise to update the language in (F) concerning the division of the fee.
- Delete Section 44-56-175 as the various Funds to which the Pinewood fees were directed to are no longer active due to the closure of Pinewood.
- Section 44-56-180 should be revised to delete the reference to the S.C. Hazardous Waste Management Select Oversight Committee.
- Section 44-56-190 should be deleted because the regulations are consistent with the statute.
- Section 44-56-510 should be deleted because this fee is no longer assessed and collected.

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(d) Other Agencies Impacted:

- Town of Pinewood
- The Governor and General Assembly since they had appointments to the Hazardous Waste Management Select Oversight Committee (even though this Committee is no longer active).

(e) Notes:

- Portions are identified in the agency's gap analysis

Law Recommendation #3.1

(a) Law:

S.C. Code Section 44-56-59 of the S.C. Hazardous Waste Management Act

(b) Summary of Current Statutory Requirement:

Findings and conclusions of the General Assembly related to existing land disposal facility capacity, preference to in-state hazardous waste generators, and restrictions on the importation of out-of-state hazardous waste.

(c) Recommendation and Rationale for Recommendation:

Changes due to Recent Court Decisions

Section 44-56-59 should be deleted to conform to a court's ruling.

- This section was struck down as a result of litigation challenging several laws, regulations, and executive orders attempting to limit the flow of out-of-state hazardous waste into South Carolina.
- The court ruled that this section was invalid and permanently enjoined. See *Environmental Technologies Council v. State of S.C.*, 901 F.Supp. 1026 (D.C.S.C. 1995), *aff'd.*, *Environmental Technology Council v. Sierra Club*, 98 F.3d 774 (4th Cir. 1996).

(d) Other Agencies Impacted:

- None

(e) Notes:

- Identified in the agency's gap analysis

Environmental Affairs

S.C. Hazardous Waste Management Act, continued

Law Recommendation #3.2

(a) Law:

S.C. Code Section 44-56-60(a)(1), (2), and (3) of the S.C. Hazardous Waste Management Act

(b) Summary of Current Statutory Requirement:

These sections were enacted at the same time as Section 44-56-59 above to: require annual reporting to the General Assembly to determine if landfill capacity should be reduced; restrict land disposal of hazardous waste; and limit the amount of land disposal of out-of-state hazardous waste.

(c) Recommendation and Rationale for Recommendation:

Changes due to Recent Court Decisions

- With the exception of the first sentence in Section 44-56-60(a)(2) which should be kept, the remainder of Section 44-56-60(a)(2), and all of Sections 44-56-60(a)(1) and (3) should be deleted.
 - These were struck down as a result of litigation challenging several laws, regulations, and executive orders attempting to limit the flow of out-of-state hazardous waste into South Carolina.
 - The court ruled that these sections were invalid and permanently enjoined. *See Environmental Technologies Council v. State of S.C.*, 901 F.Supp. 1026 (D.C.S.C. 1995), *aff'd.*, *Environmental Technology Council v. Sierra Club*, 98 F.3d 774 (4th Cir. 1996).

(d) Other Agencies Impacted:

- None

(e) Notes:

- Identified in the agency's gap analysis

Law Recommendation #3.3

(a) Law:

S.C. Code Section 44-56-130 (4), (5), and (6) of the S.C. Hazardous Waste Management Act

(b) Summary of Current Statutory Requirement:

Makes it unlawful for a person who owns or operates a hazardous waste for treatment, storage, or disposal facility to accept hazardous waste from any jurisdiction that prohibits the treatment, storage, or disposal of such waste or that has not entered into an interstate or regional agreement under CERCLA.

(c) Recommendation and Rationale for Recommendation:

Changes due to Recent Court Decisions

- Delete Sections 44-56-130(4), (5), and (6)
 - These provisions were struck down as a result of litigation challenging several laws, regulations, and executive orders attempting to limit the flow of out-of-state hazardous waste into South Carolina.

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- The court ruled that these sections were invalid and permanently enjoined. See *Environmental Technologies Council v. State of S.C.*, 901 F.Supp. 1026 (D.C.S.C. 1995), *aff'd.*, *Environmental Technology Council v. Sierra Club*, 98 F.3d 774 (4th Cir. 1996).

(d) Other Agencies Impacted:

- None

(e) Notes:

- Identified in the agency's gap analysis

Law Recommendation #3.4

(a) Law:

S.C. Code Section 44-56-205 of the S.C. Hazardous Waste Management Act

(b) Summary of Current Statutory Requirement:

Provides that all hazardous waste treatment and disposal facilities shall give preference to in-state hazardous waste generators.

(c) Recommendation and Rationale for Recommendation:

Changes due to Recent Court Decisions

- Delete Section 44-56-205.
 - This section was struck down as a result of litigation challenging several laws, regulations, and executive orders attempting to limit the flow of out-of-state hazardous waste into South Carolina.
 - The court ruled that this section was invalid and permanently enjoined. See *Environmental Technologies Council v. State of S.C.*, 901 F.Supp. 1026 (D.C.S.C. 1995), *aff'd.*, *Environmental Technology Council v. Sierra Club*, 98 F.3d 774 (4th Cir. 1996).

(d) Other Agencies Impacted:

- None

(e) Notes:

- Identified in the agency's gap analysis

Environmental Affairs

S.C. Mining Act

Law Recommendation #2.8

(a) Law:

S.C. Code Ann., Section 48-20-10 et seq., South Carolina Mining Act

(b) Summary of current statutory requirement:

This Act ensures that all land and water associated with mine activity receives a practical degree of protection and restoration. Also, the Act authorizes DHEC to issue permits for mine operations and ensure that mines comply with applicable laws and regulations.

(c) Recommendation and Rationale for Recommendation:

Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)

The S.C. Mining Act (Act) became effective in 1990 and was last revised in 1997; therefore, pertinent changes are warranted to keep pace with industry standards, practices, and developments.

The following changes are being considered and are critical to the mission of the program:

- Secure a stable funding source for Department activities which is adequate for the needs of the program;
- Make changes to distinguish mining activities from construction activities; and
- Clarify reclamation requirements and ensure funding is available for reclamation/closure.

Less significant changes have been identified to improve efficiencies or for clarity.

(d) Other Agencies Impacted:

- South Carolina Department of Natural Resources
- South Carolina State Historic Preservation Office
- South Carolina Department of Transportation
- South Carolina Ports Authority
- United States Army Corps of Engineers
- United States Fish and Wildlife Service
- United States Mine Safety and Health Administration
- United States Natural Resource Conservation Service

Environmental Affairs

Office of Coastal Resource Management (OCRM)

Law Recommendation #2.9

(a) Law:

Coastal Tidelands and Wetlands Act - S.C. Code Section 48-39-40 Coastal Zone Management Appellate Panel

(b) Summary of current statutory requirement:

Creates the Coastal Zone Management Appellate Panel, including terms and membership, which acts as an advisory council to DHEC to hear appeals of staff decisions on Coastal Division permits.

(c) Recommendation and Rationale for Recommendation:

Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)

- Delete the entirety of S.C. Code Ann. § 48-39-40 - Act 387 of 2006 amended the appeals process for the Department under S.C. Code Section 44-1-60 "to provide a uniform procedure for contested cases and appeals from administrative agencies and to the extent that a provision of this act conflicts with an existing statute or regulation, the provisions of this act are controlling."
- S.C. Code Section 48-39-40 conflicts with this uniform appeals procedure however, it was never reconciled. The General Assembly has passed a proviso annually to suspend the Coastal Zone Management Appellate Panel.

(d) Other Agencies Impacted:

- None

(e) Notes:

- Identified in the agency's gap analysis

Environmental Affairs

Agricultural Facility Setback Requirements

Law Recommendation #2.10

- (a) Law: S.C. Code Section 46-45-80
- (b) Summary of current statutory requirement:
Establishes that agricultural facility setback requirements established by regulation are minimum siting requirements that may be increased on a case-by-case basis, and which also may be waived or reduced by written consent of adjoining landowners.
- (c) Recommendation and Rationale for Recommendation:
Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)
 - Establish a bright-line setback requirement, rather than a discretionary one, that is sufficiently protective of health and not subject to increases on a case-by-case basis (maintain ability for adjoining landowners to consent to reduction or waiver of setback).
- (d) Other Agencies Impacted:
 - None

Health Regulation

State Certification of Need and Health Facility Licensure Act

Law Recommendation #1.4

(a) Law:

S.C. Code Sections 44-7-110, *et seq.*, State Certification of Need and Health Facility Licensure Act, 44-7-170(B)(6)

(b) Summary of Current Statutory Requirement:

This Act requires a Certificate of Need (CON) in certain circumstances, and also requires licensure for certain types of health care facilities. Section 44-7-170 delineates institutions and transactions exempt from the article and certain institutions and transactions exempt from just the CON provisions of the article.

(c) Recommendation and Rationale for Recommendation:

Recommended change for consistency with current science, terminology, and/or practices.

- The Department recommends modification to Section 44-7-170(B)(6) to clarify that kidney disease centers are exempt only from the CON provisions of the article, but are still subject to the licensure provisions of the article.
- DHEC currently regulates and licenses these facilities and the recommended clarification will remove any ambiguity with regard to the authority of DHEC to license kidney disease centers.

(d) Other Agencies Impacted:

- None

Law Recommendation #2.15

(a) Law:

S.C. Code Sections 44-7-110, *et seq.*, State Certification of Need and Health Facility Licensure Act

(b) Summary of Current Statutory Requirement:

This Act requires a Certificate of Need for certain entities and projects, and also requires licensure for certain health care entities. Sections 44-7-310 and -315 delineate requirements and prohibitions on disclosure of certain information obtained by the Department in the course of performing its licensure duties under the Act.

(c) Recommendation and Rationale for Recommendation:

Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)

- DHEC recommends revisions to Section 44-7-310 and/or Section 44-7-315 to allow the Department greater ability to publish information on the web, to give the public easier access to information, and to provide greater transparency.
- Modify Sections 44-7-310 and -315 to clarify the requirements and prohibitions on disclosure of certain information. These two sections appear to contain inconsistencies between one another as to what information in Health Licensing's possession related to licensed entities may be released and what information must not be released.

(d) Other Agencies Impacted:

- None

Health Regulation

Hearing Aids

Law Recommendation #1.5

(a) Law:

S.C. Code Sections 40-25-10, *et seq.*, Practice of Specializing in Hearing Aids

(b) Summary of Current Statutory Requirement:

This Act authorizes the Department to license qualified persons to engage in the practice of specializing in hearing aids, oversee the examination of persons seeking licensure, conduct periodic inspections of persons, facilities, and equipment, and take enforcement action as authorized by statute. Section 40-25-20(2) requires the Commission of Hearing Aid Specialists to prepare the examinations.

(c) Recommendation and Rationale for Recommendation:

Recommended change for consistency with current science, terminology, and/or practices.

- Modify Section 40-25-50(2) to delete from the Commission's responsibilities the requirement that it formulate the examination.
- By removing the requirement that the Commission prepare the examination, the Department will have the discretion to formulate the examination itself or procure an appropriate examination from an outside source to be administered to the applicants.

(d) Other Agencies Impacted:

- None

Law Recommendation #1.6

(a) Law:

S.C. Code Section 40-25-10, *et seq.*, Practice of Specializing in Hearing Aids

(b) Summary of Current Statutory Requirement:

This Act authorizes the Department to license qualified persons to engage in the practice of specializing in hearing aids, oversee the examination of persons seeking licensure, conduct periodic inspections of persons, facilities, and equipment, and take enforcement action as authorized by statute.

(c) Recommendation and Rationale for Recommendation:

Recommended change for consistency with current science, terminology, and/or practices.

- Modify Section 40-25-30(6) to provide the Department with the authority to impose monetary penalties for a violation of the statute or regulation, in addition to the Department's existing authority to suspend or revoke a license.

(d) Other Agencies Impacted:

- None

Health Regulation

Hearing Aids, continued

Law Recommendation #2.19

(a) Law:

S.C. Code Sections 40-25-10, *et seq.*, Practice of Specializing in Hearing Aids

(b) Summary of Current Statutory Requirement:

This Act authorizes the Department to license qualified persons to engage in the practice of specializing in hearing aids, oversee the examination of persons seeking licensure, conduct periodic inspections of persons, facilities, and equipment, and take enforcement action as authorized by statute. Sections 40-25-150(C)-(D) address continuing education compliance for licensees and specifically require the Commission of Hearing Aid Specialists to monitor continuing education compliance.

(c) Recommendation and Rationale for Recommendation:

Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)

- Modify Sections 40-25-150(C)-(D) to move responsibility for the process of continuing education compliance from the Commission of Hearing Aid Specialists to DHEC.

(d) Other Agencies Impacted:

- None

Law Recommendation #2.20

(a) Law:

S.C. Code Section 40-25-10, *et seq.*, Practice of Specializing in Hearing Aids

(b) Summary of Current Statutory Requirement:

This Act authorizes the Department to license qualified persons to engage in the practice of specializing in hearing aids, oversee the examination of persons seeking licensure, conduct periodic inspections of persons, facilities, and equipment, and take enforcement action as authorized by statute. Section 40-25-110 addresses qualifications of applicants for examinations and the conduct of examinations.

(c) Recommendation and Rationale for Recommendation:

Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)

- Modify Section 40-25-110 to authorize the Department to charge a fee for the examination of persons seeking to specialize in hearing aids in order to subsidize the cost of administering the examination.

(d) Other Agencies Impacted:

- None

Health Regulation

Hearing Aids, continued

Law Recommendation #2.21

(a) Law:

S.C. Code Section 40-25-10, *et seq.*, Practice of Specializing in Hearing Aids

(b) Summary of Current Statutory Requirement:

This Act authorizes the Department to license qualified persons to engage in the practice of specializing in hearing aids, oversee the examination of persons seeking licensure, conduct periodic inspections of persons, facilities, and equipment, and take enforcement action as authorized by statute.

(c) Recommendation and Rationale for Recommendation:

Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)

- Modify Section 40-25-30(2) to provide DHEC with the authority to facilitate the administration of the qualifying examinations.
- DHEC licenses primarily health facilities and services, so it does not administer examinations to any licensed entities except for the hearing aid specialist candidates.
- The Department should be given discretion to facilitate the administration of the examinations to allow examinations to be given directly by testing vendors.

(d) Other Agencies Impacted:

- None

Health Regulation

Body Piercing

Law Recommendation #1.7

(a) Law:

S.C. Code Sections 44-32-10, *et seq.*, Body Piercing

(b) Summary of Current Statutory Requirement:

This Act requires the Department to establish sterilization, sanitation, and safety standards for persons engaged in the business of body piercing and to issue permits to facilities to engage in body piercing and charge annual permitting fees. The Act also contains certain requirements related to body piercing technicians and certain prohibitions regarding body piercing of minors. The Act also authorizes the Department to suspend, revoke, or refuse to renew licenses for body piercing facilities. Section 44-32-80 specifically sets forth the enforcement mechanisms for the Department.

(c) Recommendation and Rationale for Recommendation:

Recommended change for consistency with current science, terminology, and/or practices.

- Modify Section 44-32-80 to enable the Department to impose monetary penalties against licensed body piercing facilities and any other persons or entities that violate the provisions of the Act or regulation.

(d) Other Agencies Impacted:

- None

Health Regulation

Tattooing

Law Recommendation #1.8

(a) Law:

S.C. Code Sections 44-34-10, *et seq.*, Tattooing

(b) Summary of Current Statutory Requirement:

This Act requires the Department to establish sterilization, sanitation, and safety standards for persons engaged in the business of tattooing and to issue licenses to facilities to engage in tattooing and charge licensing fees and inspection fees. The Act also contains certain requirements related to tattoo artists and certain prohibitions regarding the tattooing of minors, and makes certain acts criminal in nature. The Act also authorizes the Department to suspend or revoke licenses, refuse to renew licenses, or impose monetary penalties against tattoo facilities for certain violations. Section 44-34-80 specifically sets forth the enforcement mechanisms for the Department.

(c) Recommendation and Rationale for Recommendation:

Recommended change for consistency with current science, terminology, and/or practices.

- Modify Section 44-34-80 to enable the Department to impose monetary penalties against any person for violating the Tattoo Act, not just the licensees of the facilities. This would allow the Department to impose monetary penalties against persons operating unlicensed tattoo facilities.

(d) Other Agencies Impacted:

- None

Health Regulation

Midwives

Law Recommendation #1.22

(a) Law:

S.C. Code Sections 44-89-60, *et seq.*, Birthing Center Licensure Act

(b) Summary of Current Statutory Requirement:

DHEC currently licenses lay midwives under its general public health powers under Section 44-1-140, and there is no statutory provision defining the requirements for licensing midwives. Section 44-89-30(5) states “Lay midwife means an individual so licensed by the department,” and Section 44-89-30(4) defines the “Department” as the “South Carolina Department of Health and Environmental Control.” In addition, Section 44-89-60(2) states “Birthing centers shall provide care by physicians, certified nurse-midwives, or licensed lay-midwives to childbearing women during pregnancy, birth, and puerperium.” The only other Code of Laws reference to DHEC’s responsibility with regard to lay midwives is in the Nurse Practice Act. Certified nurse-midwives are licensed by South Carolina Department of Labor, Licensing and Regulation.

(c) Recommendation and Rationale for Recommendation:

Recommended change for consistency with current science, terminology, and/or practices.

- While DHEC has traditionally regulated lay midwives, DHEC’s expertise largely involves regulating health care facilities, not the actual provision of care. Therefore, DHEC recommends consideration of whether DHEC is the appropriate agency to license lay midwives.
- DHEC also recommends the law be amended to clarify the requirements for licensing lay-midwives. We believe this change will improve the program and help to better ensure the health and safety of mothers and infants.

(d) Other Agencies Impacted:

- South Carolina Department of Labor, Licensing and Regulation

Health Regulation

Emergency Medical Services Act

Law Recommendation #2.16

(a) Law:

S.C. Code Sections 44-61-10, *et seq.*, Emergency Medical Services Act of S.C.

(b) Summary of Current Statutory Requirement:

This Act authorizes the Department to develop standards for Emergency Medical Services in the state; license, certify, and permit ambulance services, EMTs, and ambulance vehicles in the state; and take certain enforcement actions. The Act also establishes an Investigative Review Committee and delineates the required composition thereof.

(c) Recommendation and Rationale for Recommendation:

Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)

- Change wording of Section 44-61-20(16) to clarify that the Department has discretion in determining whether to convene the Investigative Review Committee regarding an official investigation that may warrant suspension or revocation of a license or certification; and
- Further modify the definition of “Investigative Review Committee” in Section 44-61-20(16) to reflect that appointment to the Committee is made by the Chief of the Bureau of EMS and Trauma, rather than the Director of the Division of EMS and Trauma.

(d) Other Agencies Impacted:

- None

Law Recommendation #2.17

(a) Law:

S.C. Code Sections 44-61-10, *et seq.*, Emergency Medical Services Act of S.C.

(b) Summary of Current Statutory Requirement:

This Act authorizes the Department to develop standards for Emergency Medical Services in the state; license, certify, and permit ambulance services, EMTs, and ambulance vehicles in the state; and take certain enforcement actions.

(c) Recommendation and Rationale for Recommendation:

Changes to Improve Efficiency (Operational, Regulatory, Judicial and/or Fee Structure)

- Add new statutory provisions authorizing the Department to become a member of the EMS Compact with other EMS Compact states.
- Becoming a member of the EMS Compact would allow for cross-border practicing when the licensee meets South Carolina standards for licensure, facilitate the day-to-day movement of EMS personnel across state boundaries, and allow South Carolina to recognize and accept the EMS credentials from another Compact state. The Compact state status should help meet the demand for EMS personnel.

(d) Other Agencies Impacted:

- None

Health Regulation

Atomic Energy and Radiation Control Act

Law Recommendation #2.18

(a) Law:

S.C. Code Sections 13-7-10, *et seq.*, Atomic Energy and Radiation Control Act

(b) Summary of Current Statutory Requirement:

The Department is responsible for the control and regulation of radiation sources, including ionizing and nonionizing radiation. The Department is required to license or register radiation sources, devices or equipment using these sources, and persons possessing, using, or transferring radiation sources. The law states that the Department has “no duty to inspect a source of nonionizing radiation unless it has received credible information indicating a violation of applicable statutes or regulations.” The Department investigates and inspects upon receiving complaints regarding such matters and is authorized to take enforcement actions as necessary. Sources of nonionizing radiation includes tanning equipment. Section 13-7-45(A)(1) addresses registration fees and inspections of sources of ionizing radiation; Section 13-7-45(A)(2) and (3) address registration fees and inspections of nonionizing radiation.

(c) Recommendation and Rationale for Recommendation:

Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)

- Modify the language of Section 13-7-45(A)(3) to:
 - Provide that the Department has the authority to inspect all commercial establishments for the tanning of the human skin to ensure the public health and safety is protected from nonionizing radiation; and
 - Increase the amount of annual fees DHEC is authorized to retain for use in the administration of the tanning equipment program. This will allow DHEC to fully fund staff to perform all of the job duties associated with the tanning program.

(d) Other Agencies Impacted:

- None

Health Regulation

Narcotics and Controlled Substances

Law Recommendation #2.24

(a) Law:

S.C. Code § 44-53-110, et seq., “Narcotics and Controlled Substances”

(b) Summary of current statutory requirement:

This article sets forth the requirements for the scheduling and enforcement of controlled substances, and gives DHEC statutory authority to promulgate regulations and charge fees for licensing and controlling the manufacture, distribution, and dispensing of controlled substances.

(c) Recommendation and Rationale for Recommendation:

Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)

To help improve drug inspections and create efficiencies in the scheduling of controlled substances, DHEC has identified several specific provisions or areas of the article that should be considered for update or revision. Issues under consideration include:

- Eliminating the word “prescribe” in the definition of “dispense” and creating separate definition for prescribing to be consistent with the S.C. Pharmacy Practice Act.
- Amending the statute to allow an expedited and efficient process for DHEC to schedule a controlled substance or add/change/delete a scheduled controlled substance when that substance has been deemed an emergent threat to the health and safety of the public.
- Add a process to codify the approved controlled substances added to sections 44-53-190, 44-53-210, 44-53-230, 44-53-250, and 44-53-270, and update those sections to reflect the current schedules of approved controlled substances and adding entries which the department deems necessary.
- Eliminate the grace period for registration renewals and propose language in which registrations expire April 1/October 1 with no grace period. The penalty fee shall remain in effect.
- Eliminate the reference to the South Carolina Methadone Council and update the language to reflect current prescriptive authority for advanced practitioners.
- Amendment to allow the Department to consider all convictions related to controlled substances in granting a controlled substance registration.
- Amendment to not limit the civil fine amount and clarify that fines can be levied for each violation.
- Eliminate the schedule II transdermal patch exception for the maximum 31 day supply limitation, and require a government issued photo ID as basis for filling and selling a controlled substance prescription. Delete the ‘dispenser knows the recipient’ language.

Health Regulation

- Clarify the statute as it relates to opium derivative controlled substances, as described in Section 44-53-190 or 44-53-210, as well as add language for schedule I and II narcotics.
- Repeal Section 44-53-480(c) because it was last updated in 1986 and this function is not utilized by the Department.
- Amend to delete inspection frequency, reporting to Commission on Alcohol and Drug Abuse, as well as employing anyone other than pharmacists.
- Repeal Section 44-53-560 because it was last updated in 1971 and is no longer applicable.

(d) Other Agencies Impacted:

- South Carolina Department of Labor, Licensing and Regulation
- South Carolina Law Enforcement Division
- South Carolina Department of Mental Health
- South Carolina Attorney General's Office

Health Regulation

South Carolina Prescription Monitoring Act

Law Recommendation #2.25

(a) Law:

S.C. Code § 44-53-1610 et seq., “South Carolina Prescription Monitoring Act”

(b) Summary of current statutory requirement:

DHEC implements and maintains the “South Carolina Prescription Monitoring Act,” which sets forth requirements of a program for monitoring the prescribing and dispensing of all Schedule II, III, and IV controlled substances by applicable licensed professionals.

(c) Recommendation and Rationale for Recommendation:

Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)

Issues under consideration include:

- Amend the Act to include schedule V controlled substances.
- DHEC recommends adding language to:
 - Include a civil fine in addition to criminal penalties; and
 - Clarify the term ‘good faith’ as used in this section to be based upon a valid patient-practitioner relationship.

(d) Other Agencies Impacted:

- South Carolina Department of Labor, Licensing and Regulation
- South Carolina Law Enforcement Division
- South Carolina Attorney General’s Office

(e) Notes:

DHEC had recommended amending the violations and penalties section of the Act to include violations for persons who are not authorized to have the prescription monitoring program (PMP) information, so that all persons improperly accessing the PMP database can be subject to penalties for violation of the Act. However, **this recommendation is addressed in the amended PMP law that became effective last month.** Previously, this section of the Act allowed only authorized persons to be prosecuted and there was no basis for penalizing any unauthorized persons.

Health Regulation

Medicaid Nursing Home Permits Act

Law Recommendation #5.1

- (a) Law:
S.C. Code Sections 44-7-80, *et seq.*, Medicaid Nursing Home Permits
- (b) Summary of Current Statutory Requirement:
Directs the Department to allocate Medicaid nursing home permit days, act on applications and issue permits for Medicaid nursing home patient days, and enforce penalties for noncompliance.
- (c) Recommendation and Rationale for Recommendation:
Miscellaneous Change
Eliminate entirely:
- This law impedes the purpose of the Certificate of Need (CON) Program, which administers both the CON portions of the State Certification of Need and Health Facility Licensure Act (CON Act), S.C. Code Sections 44-7-110, *et seq.*, and the Medicaid Nursing Home Permits Act.
 - The Medicaid Nursing Home Permit Act places restrictions upon the number of nursing home days of care eligible for Medicaid reimbursement and the method by which the Department may allocate available Medicaid days of care to interested nursing homes.
 - Statewide need for new nursing home beds as calculated pursuant to the CON Program is not being met.
 - Some nursing homes have available nursing home beds in their facilities but are not able to admit new patients due to the limitations imposed by Medicaid Nursing Home Permits program.
- (d) Other Agencies Impacted:
- South Carolina Department of Health and Human Services

Vital Statistics

Law Recommendation #1.3

- (a) Law:
S.C. Code Sections 44-63-10 through 180 - Vital Statistics
- (b) Summary of current statutory requirement:
Empowers the Department to establish a bureau of vital statistics and to provide an adequate system for the registration and certification of births, deaths, marriages, and divorces.
- (c) Recommendation and Rationale for Recommendation:
Recommended change for consistency with current science, terminology and/or practices.
- Updates, revisions, and clarifications are needed to:
 - Clarify terminology;
 - Recognize the transition to an electronic system;
 - Remove obsolete references;
 - Clarify treatment of sealed records and paternity acknowledgments; and
 - Reflect changes to DHEC's organization since the statute was written.
- (d) Other Agencies Impacted:
- None
- (e) Notes:
- Identified in the agency's gap analysis

Law Recommendation #2.11

- (a) Law:
S.C. Code Sections 44-63-74 (Electronic filing and transmission of death certificates), 44-63-161 (Unlawful acts; penalties.) - Vital Statistics
- (b) Summary of current statutory requirement: Department may assess administrative penalties in fixed amounts for late filing of death certificates. Other violations are subject only to criminal penalties.
- (c) Recommendation and Rationale for Recommendation:
Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)
- Modify language to allow DHEC discretion in assessing civil penalties and amounts.
 - Add civil enforcement powers in cases other than late filing of death certificates.
 - The ability to issue orders and assess civil penalties may facilitate enforcement of registration requirements; discretion in setting amounts may prevent accumulation of excessive penalties.
- (d) Other Agencies Impacted:
- None
- (e) Notes:
- Identified in the agency's gap analysis

Vital Statistics, continued

Law Recommendation #2.12

- (a) Law:
S.C. Code Section 44-63-100 (Delayed Certificate of Birth Established by Court Order) - Vital Statistics
- (b) Summary of current statutory requirement:
Allows individual born in South Carolina who has no birth record to petition a court for establishment of a delayed birth certificate. Petitioner may file in state of residence, if not in South Carolina. Petitioner must give notice to State Registrar of the petition and hearing.
- (c) Recommendation and Rationale for Recommendation:
Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)
- Remove provision allowing petition for delayed birth certificate to be filed in state of petitioner's residence outside South Carolina. Courts of other states have no jurisdiction over the Department and defending or appearing in a case in another state is impractical for the Department.
 - Clarify DHEC must be a party to the action.
- (d) Other Agencies Impacted:
- None

Law Recommendation #2.13

- (a) Law:
S.C. Code Sections 44-63-163 (Judicial paternity determinations), 44-63-165 (Paternity acknowledgments), 63-17-10 (Paternity actions) - Vital Statistics
- (b) Summary of current statutory requirement:
States requirements for adding father's name to birth record as determined by a court or an administrative agency pursuant to Code Section 63-17-10 or as shown on a paternity acknowledgment in certain cases. If an action is brought under 63-17-10 prior to the birth of a child, proceedings must be stayed until after the birth of the child, except the service of a summons and discovery procedures.
- (c) Recommendation and Rationale for Recommendation:
Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)
- Remove references to administrative agency determinations of paternity and acknowledgments under Code Section 63-17-10; there is no administrative determination in Code Section 63-17-10 and no paternity acknowledgment without a court order in Code Section 63-17-10.
 - Clarify whether paternity determinations by out of state courts may be accepted as sufficient; parties will sometimes be residents of another state, which would have jurisdiction to make a paternity determination under its own laws, and DHEC does not need to be a party to the paternity action, even in South Carolina.

Public Health

- Clarify whether pre-birth orders in surrogacy cases are effective to determine parentage for purposes of birth registration.

(d) Other Agencies Impacted:

- None

Law Recommendation #2.14

(a) Law:

S.C. Code Sections 44-63-150 (Correction of mistakes in birth or death certificates), 62-1-302 (Probate court jurisdiction), 63-3-530 (Family court jurisdiction) - Vital Statistics

(b) Summary of current statutory requirement:

Provides for administrative correction of mistakes in birth certificates; specifies family courts have jurisdiction over actions to correct birth records; no court is given express jurisdiction over death certificate corrections.

(c) Recommendation and Rationale for Recommendation:

Changes to Improve Efficiency (Operational, Regulatory, Judicial and/or Fee Structure)

- Clarify parents cannot make changes to adult children's birth certificates unless the children are legally incompetent.
- Clarify family court has jurisdiction over amendments to birth certificates, as well as corrections; some amendments may not be appropriately characterized as "corrections," for example, name changes, addition of father's name after paternity findings, and certain other changes.
- Give probate court express jurisdiction over corrections to death certificates; no court currently is given express authority over corrections to death certificates, leading to confusion and uncertainty on the bench and bar and within DHEC.
- Clarify whether an out-of-state court order can serve as the basis for a correction or amendment.

(d) Other Agencies Impacted:

- None

Public Health

County, Township or Municipal Hospitals, or Tuberculosis Camps

Law Recommendation #1.10

- (a) Law:
S.C. Code §§ 44-7-610 through -780, “County, Township or Municipal Hospitals, or Tuberculosis Camps”
- (b) Summary of Current Statutory Requirement:
These sections comprise Article 5 of Title 44 – “County, Township or Municipal Hospitals, or Tuberculosis Camps.” These sections allow for the citizens of a county to petition for a public hospital or tuberculosis camp, as well as provide the manner in which such a facility must be administered.
- (c) Recommendation and Rationale for Recommendation:
Recommended change for consistency with current science, terminology and/or practices.
 - The Department recommends deleting any reference to tuberculosis camps in these sections as the Department no longer treats or controls tuberculosis disease through the use of tuberculosis camps.
- (d) Other Agencies Impacted:
 - None

Community Oral Health Coordinator

Law Recommendation #1.11

- (a) Law:
S.C. Code § 44-8-10 through -60, "Community Oral Health Coordinator"
- (b) Summary of Current Statutory Requirement:
Chapter 8 of Title 44 is entitled, "Community Oral Health Coordinator." In three to five counties state-wide, targeted by need, the Department is required to implement a community dental health program for public school students at specified grade-levels, or upon a child's transfer into the South Carolina public school system, regardless of grade-level.
- (c) Recommendation and Rationale for Recommendation:
Recommended change for consistency with current science, terminology and/or practices.
- DHEC recommends expansion of the community dental-health program to persons of any age in underserved and vulnerable populations in order to better align with the Dental Practice Act 2003, located at S.C. Code § 40-15-110. The current language requires the Community Oral Health Coordinator to serve only school-aged children in the designated counties.
- (d) Other Agencies Impacted:
- South Carolina Department of Education
 - Local School Districts

Public Health

Dentists, Dental Hygienists, and Dental Technicians

Law Recommendation #1.12

(a) Law:

S.C. Code § 40-15-110(E), “Dentists, Dental Hygienists, and Dental Technicians”

(b) Summary of Current Statutory Requirement:

This section is known as the “Dental Practices Act of 2003.” Chapter 15 pertains to Dentists, Dental Hygienists, and Dental Technicians. Section 110 provides a list of exemptions from the Chapter, including Subsection (E), which requires DHEC to target dental services in a public health setting to under-served populations

(c) Recommendation and Rationale for Recommendation:

Recommended change for consistency with current science, terminology, and/or practices.

- Because the Dental Practices Act places the responsibility on DHEC to target and facilitate dental services to under-served populations, this section would be more appropriately located with the majority of DHEC’s health-related responsibilities found in Title 44.
- To ensure that these services are being properly implemented, DHEC recommends adding to Title 44 a requirement that any dental provider operating in a public health setting must submit specific data to DHEC and use DHEC surveillance tools for the implementation of public health core functions.

(d) Other Agencies Impacted:

- South Carolina Department of Labor, Licensing and Regulation

Contagious and Infectious Diseases

Law Recommendation #1.13

- (a) Law:
S.C. Code § 44-29-10(A), "Contagious and Infectious Diseases"
- (b) Summary of Current Statutory Requirement:
This section enumerates the reporting requirements for certain health-care providers for all cases of known or suspected contagious or infectious diseases occurring within the state's borders.
- (c) Recommendation and Rationale for Recommendation:
Recommended change for consistency with current science, terminology, and/or practices.
 - DHEC recommends that:
 - References to reporting to county health departments be eliminated; and
 - Reporting be made to DHEC by the attending physician within the timeframe and in the form and manner as the Department directs.
- (d) Other Agencies Impacted:
 - None

Law Recommendation #1.14

- (a) Law:
S.C. Code § 44-29-70, Contagious and Infectious Diseases"
- (b) Summary of Current Statutory Requirement:
Requires the reporting of sexually transmitted diseases to the Department.
- (c) Recommendation and Rationale for Recommendation:
Recommended change for consistency with current science, terminology, and/or practices.
 - Add the term "sexually transmitted infections" to the title and language of the section, to update the statute with current nomenclature in the field. This language is more inclusive and supports the Department's duties to investigate and prevent the spread of certain infectious and contagious diseases.
- (d) Other Agencies Impacted:
 - None

Contagious and Infectious Diseases, continued

Law Recommendation #1.15

- (a) Law:
S.C. Code § 44-29-80, "Contagious and Infectious Diseases"
- (b) Summary of Current Statutory Requirement:
Laboratories shall report positive tests and cooperate in preventing spread of sexually transmitted disease.
- (c) Recommendation and Rationale for Recommendation:
Recommended change for consistency with current science, terminology, and/or practices.
- DHEC recommends adding the term "sexually transmitted infection" to the section title and the statutory language in order to bring the statute up to date with the current nomenclature in the field.
 - DHEC also recommends removing the reference to "local boards of health" in the body of the statute as the term is no longer applicable due to the fact that there are no local boards of health.
- (d) Other Agencies Impacted:
- None

Law Recommendation #1.16

- (a) Law:
S.C. Code § 44-29-90, "Contagious and Infectious Diseases"
- (b) Summary of Current Statutory Requirement: Addresses the examination, treatment, and isolation of persons infected with venereal disease.
- (c) Recommendation and Rationale for Recommendation:
Recommended change for consistency with current science, terminology, and/or practices.
- Bring the statute up to date with the current nomenclature in the field by:
 - Modifying the statutory title to replace the phrase "venereal disease" with the phrase "sexually transmitted disease and sexually transmitted infection."
 - In the body of the statute, adding the phrase "sexually transmitted infection" in each instance the phrase "STD" is used alone.
- (d) Other Agencies Impacted:
- None

Contagious and Infectious Diseases, continued

Law Recommendation #1.17

- (a) Law:
S.C. Code § 44-29-100, "Contagious and Infectious Diseases"
- (b) Summary of Current Statutory Requirement:
Examination and treatment and isolation of prisoners for sexually transmitted disease.
- (c) Recommendation and Rationale for Recommendation:
Recommended change for consistency with current science, terminology, and/or practices.
- Modify the statute to reflect the fact that prisoners are no longer kept in custody after the completion of their sentences for treatment of sexually transmitted disease or sexually transmitted infection.
 - Add the term "sexually transmitted infection" to accompany any reference of "sexually transmitted disease" in order to bring the statute up to date with the current nomenclature in the field.
- (d) Other Agencies Impacted:
- South Carolina Department of Corrections
 - County Jails
- (e) Notes:
- Identified in the agency's gap analysis

Law Recommendation #1.18

- (a) Law:
S.C. Code § 44-29-136, "Contagious and Infectious Diseases"
- (b) Summary of Current Statutory Requirement: Court orders for disclosure of records for law enforcement purposes; confidentiality safeguards.
- (c) Recommendation and Rationale for Recommendation:
Recommended change for consistency with current science, terminology, and/or practices.
- DHEC recommends adding the term "sexually transmitted infection" to the statutory language in order to bring the statute up to date with the current nomenclature in the field.
 - Change the misspelled word "counselling" to "counseling."
- (d) Other Agencies Impacted:
- None

Contagious and Infectious Diseases, continued

Law Recommendation #1.19

- (a) Law:
S.C. Code § 44-29-140, "Contagious and Infectious Diseases"
- (b) Summary of Current Statutory Requirement:
Penalties pertaining to venereal disease.
- (c) Recommendation and Rationale for Recommendation:
Recommended change for consistency with current science, terminology, and/or practices.
 - DHEC recommends deleting references to "venereal disease" and adding the terms "sexually transmitted infection" and "sexually transmitted disease" to the statutory language in order to bring the statute up to date with the current nomenclature in the field.
- (d) Other Agencies Impacted:
 - None

Law Recommendation #1.20

- (a) Law:
S.C. Code § 44-29-135(f), "Contagious and Infectious Diseases"
- (b) Summary of Current Requirements:
This section discusses confidentiality of sexually transmitted disease records, and this subsection specifically pertains to school notification when a minor is HIV positive.
- (c) Recommendation and Rationale for Recommendation:
Recommended change for consistency with current science, terminology, and/or practices.
 - Repeal subsection (f). The medical literature today indicates that there is no risk of spreading HIV between children through casual, social contact and federal law prohibits children with HIV from being discriminated against.
- (d) Other Agencies Impacted:
 - South Carolina Department of Education
 - Individual School Districts

Contagious and Infectious Diseases, continued

Law Recommendation #4.2

- (a) Law:
S.C. Code § 44-29-195, "Contagious and Infectious Disease"
- (b) Summary of Current Statutory Requirement:
Prohibits children from attending school with head lice and establishes criteria for return.
Requires DHEC to provide products for head lice treatment to families with children who receive Medicaid or free or reduced school meals.
- (c) Recommendation and Rationale for Recommendation:
Changes due to Insufficient Funding
 - Remove subsection (B) and the subsequent paragraph, requiring the Department to make products for treatment of head lice available to eligible families, and defining the eligibility requirements that would trigger the Department's involvement in a child's treatment for head lice.
 - These provisions are not currently funded. The Department has not dispensed these products, nor received requests for them, in many years.
- (d) Other Agencies Impacted:
 - None
- (e) Notes:
 - Identified in the agency's gap analysis

Care of the Newly Born

Law Recommendation #1.21

- (a) Law:
S.C. Code § 44-37-30, "Care of the Newly Born"
- (b) Summary of Current Statutory Requirement:
This section provides for the neonatal testing of children for metabolic errors and hemoglobinopathies.
- (c) Recommendation and rationale for recommendation:
Recommended change for consistency with current science, terminology, and/or practices.
 - DHEC recommends removing the requirement for indefinite retention of blood specimens, which is consistent with a long-standing proviso (2016-17 Budget Proviso 34.37). There is no clinical or scientific reason for DHEC to maintain long-term possession of these blood samples, nor does DHEC have the ability or capacity to store them in freezers indefinitely.
- (d) Other Agencies Impacted:
 - Medical facilities and practitioners who perform testing

Reports and Records of Tuberculosis Cases

Law Recommendation #1.23

- (a) Law:
S.C. Code § 44-31-10, "Reports and Records of Tuberculosis Cases"
- (b) Summary of current statutory requirement:
This section requires certain medical providers and entities to report cases of tuberculosis to DHEC.
- (c) Recommendation and Rationale for Recommendation:
Recommended change for consistency with current science, terminology, and/or practices.
- The language should be updated to encompass current medical recommendations and reporting practices for providers in the state to notify the Department of cases of tuberculosis, including deleting any reference to a "chief administrative officer" as those individuals are no longer involved in disease reporting.
- (d) Other Agencies Impacted:
- None

Law Recommendation #2.26

- (a) Law:
S.C. Code § 44-31-105, "The Emergency Detention and Commitment of Tuberculosis Patients"
- (b) Summary of current statutory requirement:
This section provides DHEC the authority to issue and enforce emergency orders for the control and treatment of tuberculosis.
- (c) Recommendation and Rationale for Recommendation:
Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)
- Amend the statute to clarify the county in which a petition must be filed in probate court for an individual being detained. The Department recommends that the petition be filed in the county where the individual is being detained.
- (d) Other Agencies Impacted:
- Probate Courts

Emergency Health Powers Act

Law Recommendation #2.22

(a) Law:

S.C. Code Section 44-4-130(R), "Emergency Health Powers Act," Definitions.

(b) Summary of current statutory requirement:

The definition of a "public health emergency" is linked directly to the definition of a "qualifying health condition," which triggers the Governor's authority to declare a "public health emergency." The definition of a "qualifying health condition" should be amended to include "a nuclear attack or accident," "a chemical attack or release," "a man-made disaster widely affecting public health or the environment," and "an act of terrorism or bioterrorism affecting public health or the environment."

(c) Recommendation and Rationale for Recommendation:

Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)

- Modify the "Emergency Health Powers Act," S.C. Code 44-4-100, et. seq. to add the following conditions in the definition of a "Qualifying health condition":
 - A man-made disaster widely affecting public health or the environment;
 - A nuclear attack or accident;
 - A chemical attack or release; and
 - An act of terrorism or bioterrorism affecting public health or the environment.
- This Act is extremely important to the State's ability to respond to public health emergencies and the Governor's authority to declare a public health emergency. These additions are necessary to ensure the State can respond fully to these events.

(d) Other Agencies Impacted:

- South Carolina Emergency Management Division

South Carolina Health Care Professional Compliance Act

Law Recommendation #2.23

(a) Law:

S.C. Code §§ 44-30-10 through -90. "South Carolina Health Care Professional Compliance Act"

(b) Summary of Current Statutory Requirement:

The Health Care Professional Compliance Act provides for the creation of expert review panels whereby a health care worker who is either HIV or HBV positive can present his or her situation to the advisory panel and receive recommendations for participating in certain invasive procedures in the health care setting.

(c) Recommendation and Rationale for Recommendation:

Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)

- Modify the following sections:
 - § 44-30-20(2): DHEC recommends that "CDC Recommendations" be redefined to include current CDC guidelines or equivalent guidelines from national expert bodies developed by the Department and approved by the CDC as well as any appropriate supplements or revisions thereto;
 - § 44-30-30(C): DHEC recommends that the section be revised to provide that the Department shall appoint at least one or approve an existing expert review panel if needed, consistent with the CDC recommendations in composition and function, whose recommendations must be considered requirements, and must be binding upon the affected health care professionals; and
 - § 44-30-80: DHEC recommends that the section be enforced to require educational institutions to provide current training in infection control practices for health care professionals participating in the institutions' education programs.

(d) Other Agencies Impacted:

- South Carolina Department of Labor, Licensing and Regulation – Professional licensing boards may be involved in oversight of HBV-infected professionals who perform certain exposure-prone procedures.

(e) Notes:

- Portions are identified in the agency's gap analysis

Medical and Dental Loan Fund

Law Recommendation #4.1

- (a) Law:
S.C. Code Sections 59-111-510 through -580 - South Carolina Medical and Dental Loan Fund
- (b) Summary of current statutory requirement:
The Department is to administer a fund to be known as “The South Carolina Medical and Dental Loan Fund” with sums as may be appropriated by the General Assembly, to assist loan recipients with the costs of medical and dental education in return for commitments to practice in underserved areas of the State.
- (c) Recommendation and Rationale for Recommendation:
Changes due to Insufficient Funding
 - Repeal the statute. The General Assembly has not appropriated funds for many years.
- (d) Other Agencies Impacted:
 - None
- (e) Notes:
 - Identified in the agency’s gap analysis

Public Health

Osteoporosis Prevention and Treatment Education Act

Law Recommendation #4.3

- (a) Law:
S.C. Code §§ 44-125-10 through -40, "Osteoporosis Prevention and Treatment Education Act"
- (b) Summary of Current Requirements:
Osteoporosis Prevention and Treatment Education Act to establish an Osteoporosis Education Fund to promote public awareness, prevention, and treatment of osteoporosis.
- (c) Recommendation and Rationale for Recommendation:
Changes due to Insufficient Funding
 - Repeal these sections.
 - The Osteoporosis Education Fund has not been established nor have funds been allocated to the Department to carry out the stated purpose of promoting public awareness, prevention, and treatment of osteoporosis.
- (d) Other Agencies Impacted:
 - None
- (e) Notes:
 - Identified in the agency's gap analysis

Infants and Toddlers with Disabilities Act

Law Recommendation #5.2

(a) Law:

S.C. Code §§ 44-7-2510 through -2610, "Infants and Toddlers with Disabilities Act"

(b) Summary of Current Statutory Requirement:

These sections comprise Article 21 of Title 44, the "Infants and Toddlers with Disabilities Act." Pursuant to a federal mandate codified in 20 USCA §§ 1451 et seq., the Act requires the provision of early-intervention services to infants and toddlers with disabilities.

(c) Recommendation and Rationale for Recommendation:

Miscellaneous Changes

- The Act provides the Governor with discretion to designate the lead agency for this program. Because the lead agency is subject to change, DHEC recommends moving the statutory sections within the Act from Title 44 to Title 63, also known as the "South Carolina Children's Code," which is a neutral and intuitive place to house the Act, regardless of which agency is designated the lead agency.

(d) Other Agencies Impacted:

- Leaving the Act intact, but moving it to another location, should not impact any other agency.