Agency Name: Department of Health and Environmental Control

Statutory Authority: 1-23-500, 1-23-600, 44-1-50, and 44-1-60

Document Number: 4466

Proposed in State Register Volume and Issue: 38/6

House Committee: Medical, Military, Public and Municipal Affairs Committee

Senate Committee: Medical Affairs Committee

120 Day Review Expiration Date for Automatic Approval: 05/13/2015

Final in State Register Volume and Issue: 39/6

Status: Final

Subject: Procedures for Contested Cases

History: 4466

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

- 06/27/2014 Proposed Reg Published in SR

- 01/13/2015 Received by Lt. Gov & Speaker 05/13/2015

H 01/13/2015 Referred to Committee

S 01/13/2015 Referred to Committee

H 01/20/2015 Recalled from Committee on Agriculture,

Natural Resources and Environmental Affairs

H 01/20/2015 Referred to Committee

H 03/03/2015 Resolution Introduced to Approve 3748

- 05/13/2015 Approved by: Expiration Date

- 06/26/2015 Effective Date unless otherwise

provided for in the Regulation

Document No. 4466

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

CHAPTER 61

Statutory Authority: 1976 Code Sections 1-23-500, 1-23-600, 44-1-50, and 44-1-60

61-72. Procedures for Contested Cases

**Synopsis:**

Adjudicatory hearings as prescribed in R.61-72 no longer occur due to the statutory creation of the Administrative Law Court (“ALC”) and 1976 Code Section 44-1-60 providing for ALC review of final agency decisions. As such, R.61-72 has no legal effect and is no longer needed.

A Notice of Drafting for this proposed repeal was published in the *State Register* on April 25, 2014.

**Instructions:**

Repeal R.61-72 in the S.C. Code of State Regulations.

**Text:**

61‑72. [Repealed]

**Fiscal Impact Statement:**

The State will not incur costs as a result of the repeal of R.61-72, as the regulation currently has no legal effect due to the creation of the Administrative Law Court and its authority to review contested cases.

**Statement of Need and Reasonableness:**

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

DESCRIPTION OF REGULATION:

Purpose: With the statutory creation of the Administrative Law Court and its authority to review contested cases, adjudicatory hearings as prescribed in R.61-72 no longer occur. The Department instead follows appeal procedures put forth in 1976 Code Section 44-1-60, which provides for appeal of final agency decisions to the Administrative Law Court. The requirements and procedures of R.61-72 no longer apply. As such, the Department is repealing R.61-72.

Legal Authority: 1976 Code Sections 1-23-500, 1-23-600, 44-1-50, and 44-1-60.

Plan for Implementation: Upon approval of this repeal by the S.C. General Assembly and publication as a final regulation repeal in the State Register, this regulation is repealed. Regulation 61-72 will be repealed in Chapter 61 of the Code of Regulations of the S.C. Code of Laws.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION AND REPEAL AND EXPECTED BENEFITS:

This repeal is needed in order to align the Department's regulations with governing statutory authority, residing at 1976 Code Sections 1-23-500, 1-23-600, 44-1-50, and 44-1-60. The repeal is reasonable because it does not advance beyond the scope of that authority. There are no issues with costs, as R.61-72 has been ineffective since statutory authority placed review authority in the Administrative Law Court of contested cases. There is no effect on the environment or public health. Expected benefits of the repeal include prevention of any confusion on the part of the public due to the presence of a regulation that has no legal effect.

DETERMINATION OF COSTS AND BENEFITS:

There are no issues with costs, as R.61-72 has been ineffective since statutory authority placed review authority in the Administrative Law Court of contested cases. Expected benefits of the repeal include prevention of any confusion on the part of the public due to the presence of a regulation that has no legal effect.

UNCERTAINTIES OF ESTIMATES:

There are no estimate uncertainties associated with this repeal.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There are no effects on the environment or public health associated with this repeal.

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

There are no effects on the environment or public health associated with this repeal.

**Statement of Rationale:**

This repeal was necessary in order to align the Department's regulations with governing statutory authority. With the creation of the Administrative Law Court and its authority to review contested cases, adjudicatory hearings as prescribed in R.61-72 no longer occur. There are no scientific or technical aspects of this repeal.