

EXECUTIVE ORDER NO.

2024-22

WHEREAS, South Carolina has been richly blessed with a plentiful supply of groundwater and surface water; and

WHEREAS, the need for and demand on South Carolina’s natural resources, including groundwater and surface water, continues to grow due to the State’s success in attracting new businesses, industries, and residents; and

WHEREAS, the State of South Carolina has been recognized as a model for commerce, conservation, and preservation, and consistent with these principles, sound long-term management of South Carolina’s water resources is vital to the continued economic prosperity of the State and to the well-being of its citizens and environment; and

WHEREAS, the South Carolina Water Resources Planning and Coordination Act, S.C. Code Ann. §§ 49-3-10 *et seq.* (“Planning Act”); the South Carolina Surface Water Withdrawal and Reporting Act, S.C. Code Ann. §§ 49-4-10 *et seq.* (“Surface Water Act”); and the Groundwater Use and Reporting Act, S.C. Code Ann. §§ 49-5-10 *et seq.* (“Groundwater Act”) (collectively, “the Acts”), define policies and substantive requirements for water planning, use, and control in South Carolina; and

WHEREAS, pursuant to section 49-3-50 of the South Carolina Code of Laws, in exercising its responsibilities under the Planning Act, the Department of Environmental Services (“DES”) must consider certain statutory factors, such as the need for adequate supplies of surface and groundwaters of suitable quality for all uses, including domestic, municipal, agricultural, and industrial; water quality; water availability; hydroelectric power; flood damage control or prevention measures including zoning to protect people, property, and productive lands from flood losses; land stabilization measures; drainage measures; watershed protection and management measures; recreational and fish and wildlife opportunities; studies on saltwater intrusion into groundwater and surface water; and protection of the State’s fisheries and aquatic resources, as

well as any other means to promote economic development, preserve the State's water resources, and ensure the well-being of South Carolinians; and

WHEREAS, in section 49-5-20 of the South Carolina Code of Laws, the General Assembly declared that the general welfare and public interest require that the groundwater resources of the State be put to beneficial use to the fullest extent to which they are capable, subject to reasonable regulation, to conserve and protect these resources, prevent waste, and to provide and maintain conditions which are conducive to the development and use of water resources; and

WHEREAS, pursuant to section 49-4-80 of the South Carolina Code of Laws, DES must consider various factors when determining whether an applicant's proposed use for a surface water withdrawal permit is reasonable, including the instream flow and safe yield for the surface water source at the location; the anticipated effect of the applicant's proposed use on existing users of the same surface water source; the reasonably foreseeable future need for the surface water, such as for agricultural, municipal, industrial, electrical generation, and instream uses; any foreseeable impact of the withdrawals on navigation, fish and wildlife habitat, or recreation; the applicant's reasonably foreseeable future water needs from that surface water; the beneficial impact on the State and its political subdivisions from a proposed withdrawal; the impact of applicable industry standards on the efficient use of water, if followed by the applicant; and the effect of the applicant's proposed use on public health and economic development, as well as any other reasonable criteria DES promulgates by regulation; and

WHEREAS, pursuant to section 49-3-40 of the South Carolina Code of Laws, as amended, prior to July 1, 2024, the South Carolina Department of Natural Resources ("DNR") was, and after July 1, 2024, DES is, charged with advising and assisting the undersigned and the General Assembly in formulating and establishing a comprehensive water resources policy for the State, such as a State Water Plan, and recommending to the General Assembly any changes of law or regulation required to implement the policy declared in the Planning Act; and

WHEREAS, the State Water Advisory Planning Committee and the South Carolina River Basin Councils, both established by DNR, have worked diligently to develop river basin-specific water plans, and two of these eight plans are complete, with the remaining six plans to be completed under the direction of DES; and

WHEREAS, the State of South Carolina has invested and continues to invest significant resources in statewide water planning; and

WHEREAS, pursuant to Proviso 117.184 of the 2024–25 Appropriations Act, Act No. 226 of 2024, the General Assembly established a Surface Water Study Committee to study the current state of surface water in South Carolina and provide a report on its work and findings to the General Assembly by March 1, 2025; and

WHEREAS, groundwater and surface water are inextricably connected and must be considered together when defining state water policy; and

WHEREAS, the State Water Plan, first published in 1998, was last updated in 2004, and many of the policies and substantive requirements of the Acts have not been revised in over a decade; and

WHEREAS, state water policy must balance the economic, environmental, and social priorities of South Carolina; ensure the reasonable and appropriate use of water in the State; increase, to the extent possible, availability of water resources through technology, conservation, and public education; and be guided by what is in the best interest of all current and future South Carolinians; and

WHEREAS, water is a shared resource and stakeholders share the responsibility to inform the development of a state water policy and plan; and

WHEREAS, pursuant to section 49-3-40(A)(7) of the South Carolina Code of Laws, DES shall advise and assist the undersigned and the General Assembly in connection with such other water resources planning, policy formulation, and coordinating functions as the undersigned and the General Assembly may designate; and

WHEREAS, in recognition of the foregoing considerations and authorities, and in furtherance of the cited policies and priorities, the undersigned has determined that it is necessary and appropriate to initiate additional proactive action to prioritize and facilitate focused intergovernmental coordination and cooperation, as well as collaboration with other ongoing efforts and existing initiatives, to assist with the development and enhancement of South Carolina's water resources policy and plan and to ensure the reliability, resiliency, sustainability, and sufficiency of the State's water resources for all existing and future uses.

NOW, THEREFORE, by the virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I do hereby order and direct as follows:

Section 1. Establishing "WaterSC" Water Resources Working Group

A. In furtherance of the State of South Carolina's significant interests in the development of a state water resources policy and plan that will balance the State's economic, environmental, and social needs; ensure the reliability, resiliency, sustainability, and sufficiency of the State's water resources for all existing and future uses, while simultaneously protecting the environment; and support and facilitate additional collaboration with ongoing efforts and existing initiatives, I hereby authorize and direct DES to convene, and to coordinate the activities of, the WaterSC Water Resources Working Group ("WaterSC"), which shall undertake the following actions and initiatives:

1. On or before October 31, 2024, WaterSC shall adopt and publish a Stakeholder Engagement Plan for the development of the updated State Water Plan.

2. On or before January 31, 2025, WaterSC shall provide a report to the Surface Water Study Committee, based on a consensus of the membership, informing the Committee of the current state of surface water in South Carolina and making recommendations regarding any necessary additions or changes to current law to ensure sustainable surface water withdrawal practices and procedures.
3. Advise and assist DES regarding the comprehensive water resources policy for the State such that DES may issue an updated State Water Plan on or before December 31, 2025. WaterSC shall inform DES concerning recommendations regarding any changes in law or regulation that may be required to implement the updated State Water Plan, including any changes related to the use and control of surface water and groundwater in the State.

B. Myra Reece, Interim Director of DES, shall serve as the Chair of WaterSC by virtue of said office. WaterSC shall also be comprised of the following additional *ex officio* participants:

1. Director of the Office of Resilience, *ex officio*, or designee;
2. Commissioner of Agriculture, *ex officio*, or designee;
3. Director of the Department of Parks, Recreation and Tourism, *ex officio*, or designee;
4. Director of the Department of Natural Resources, *ex officio*, or designee; and
5. Secretary of Commerce, *ex officio*, or designee.

DES shall identify and designate up to twenty-five (25) additional participants from among the following sectors and categories:

1. Academia;
2. Public water suppliers;
3. Conservation, water and land;
4. Agriculture;
5. Forestry;
6. Industry;
7. Energy;
8. Tourism and hospitality;
9. Historic preservation; and
10. Individuals with relevant professional expertise.

Upon the recommendation of the above-referenced WaterSC participants, DES shall also designate up to three (3) additional participants who have relevant professional, academic, or research expertise or subject-matter experience, including engineering, public planning, hydrology, environmental protection, farming, or climatology.

C. DES shall invite members of the Surface Water Study Committee, or their designees, to attend and participate in all WaterSC meetings. In consultation with the Office of the Governor, DES may designate additional individuals or agencies, departments, organizations,

or other entities, or representatives thereof, to participate in WaterSC, or components thereof, as necessary and appropriate.

D. DES shall provide staff resources and administrative support to WaterSC as necessary and appropriate. The Chair may form committees or subcommittees of the participants as necessary. WaterSC meetings shall be held regularly, be publicly noticed, and appropriately broadcast. Minutes of meetings shall be recorded for archival record.

E. WaterSC, or representatives or components thereof, shall proactively engage with, and solicit input from, the public to ensure that any recommendations or proposals are made in consideration of, and for the benefit of, public needs and purposes. WaterSC should invite input from members of the public and relevant stakeholders or interested parties, including environmental and conservation organizations, private industry, nonprofits, academia, and federal, state, and local government entities, and should consider and incorporate the same as appropriate. WaterSC shall call upon federal agencies, including the United States Geological Survey (“USGS”), to assist with the initiatives identified herein and may call upon other individuals or entities to participate, as necessary and appropriate, and to provide relevant information and expertise.

F. Pursuant to article IV, section 17 of the South Carolina Constitution and sections 1-1-840 and 1-3-10 of the South Carolina Code of Laws, as amended, and in furtherance of the principles, considerations, and initiatives set forth above, I hereby authorize and direct any state agencies, departments, entities, or officials called upon for assistance by WaterSC or DES to cooperate with, accommodate, and assist WaterSC or DES in conducting or performing the activities required by this Section or otherwise undertaken to advance the interests and initiatives identified herein and to provide WaterSC and DES with any and all data, information, documents, or materials requested by WaterSC or DES in connection with the same.

Section 2. General Provisions

A. This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of South Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

B. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Order is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this Order, as the undersigned would have issued this Order, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

C. This Order shall be implemented consistent with and to the maximum extent provided by applicable law and shall be subject to the availability of appropriations. This Order shall not be interpreted, applied, implemented, or construed in a manner so as to impair, impede, or otherwise affect the authority granted by law to an executive agency or department, or the officials or head thereof, including the undersigned.

D. I hereby expressly authorize the Office of the Governor to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Order or to otherwise to provide clarification regarding the same, through appropriate means, without the need for further Orders.

E. This Order is effective immediately and shall remain in effect unless otherwise expressly stated herein or modified, amended, extended, or rescinded by subsequent Order.

**GIVEN UNDER MY HAND AND THE
GREAT SEAL OF THE STATE OF
SOUTH CAROLINA, THIS 24th DAY OF
SEPTEMBER, 2024.**

HENRY DARGAN MCMASTER
Governor

ATTEST:

MARK HAMMOND
Secretary of State