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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
S. Phillip Lenski, Administrative Law Judge

Appellate Case No. 2025-002447
Docket No. 24-ALJ-07-0316-CC

Friends of Horse Creek Valley,

Appellant,

v.

South Carolina Department of Environmental Services and Rabbit Hill Class 2 Landfill,

Respondents.

FINAL BRIEF OF APPELLANT

SOUTH CAROLINA ENVIRONMENTAL LAW PROJECT
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September 14, 2026
Pawleys Island, South Carolina

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STATEMENT OF ISSUES ON APPEAL

1. Whether Regulation 61-107.17(D)(6), governing Demonstration of Need variances, permits a new landfill to qualify as a "replacement facility," and thereby avoid the Solid Waste Act's Demonstration of Need requirement, when the proposed facility materially increases overall size and total disposal capacity beyond that of the landfill it purports to replace.

2. Whether the Administrative Law Court erred in adopting an interpretation of Regulation 61-107.17(D)(6) that allows a materially larger landfill to qualify as a "replacement facility" and thereby avoid the Solid Waste Act's Demonstration of Need requirement, in light of the Act's text and purpose.

3. Whether, assuming the Administrative Law Court correctly interpreted Regulation 61-107.17(D)(6) to allow a materially larger landfill to qualify as a "replacement facility" and thereby avoid the Solid Waste Act's Demonstration of Need requirement, the regulation itself is invalid as contrary to the Act's text and purpose.

STATEMENT OF THE CASE

This appeal arises from a contested case challenging the South Carolina Department of Environmental Services' decision to grant Rabbit Hill Class 2 Landfill a variance from the Demonstration of Need requirement to permit construction of a new landfill as a "replacement facility" under Regulation 61-107.17(D)(6). Rabbit Hill owns and operates an existing Class 2 construction and demolition landfill located at 550 Rainbow Falls Road in Graniteville, Aiken County, South Carolina, commonly referred to as the Hilltop Landfill. The Hilltop Landfill was originally permitted in 1995 for disposal of construction and demolition debris and has subsequently operated under a defined disposal footprint and permitted volumetric capacity.

In 2023, Rabbit Hill sought approval to construct a new landfill on a separate tract of land located at 331 Dixie Clay Road in Beech Island, Aiken County, South Carolina, referred to as the Rabbit Hill Landfill. Rabbit Hill requested to have the proposed landfill approved as a replacement facility and to obtain a variance from the Demonstration of Need requirement. The Department processed the request under Phase I of the two-phase landfill permitting process and, on July 17, 2024, issued a Final Phase I Determination approving the landfill for construction and advancing the project to Phase II technical review.

Friends of Horse Creek Valley timely requested a contested case hearing (R. pp. **022-038**). The parties filed cross-motions for summary judgment (R. pp. **292-526**). The Administrative Law Court held a hearing on June 26, 2025, and by Order dated October 14, 2025, granted summary judgment to Rabbit Hill and the Department and denied Petitioner's motion for summary judgment (R. pp**. 004-018**). The court concluded that the proposed landfill qualified as a replacement facility notwithstanding its substantially greater size and capacity(R. p. **016**). The court denied a motion for reconsideration by Order dated November 18, 2025 (R. pp. **019-021**). This appeal followed(R. pp. **595-618**).

STANDARD OF REVIEW

Judicial review of a final decision of the Administrative Law Court is governed by S.C. Code Ann. § 1-23-610. Under that statute, the Court of Appeals may affirm the decision or remand the case for further proceedings, or it may reverse or modify the decision if the petitioner's substantial rights have been prejudiced because the decision is in violation of constitutional or statutory provisions, exceeds the agency's statutory authority, is made upon unlawful procedure, is affected by other error of law, is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, or is arbitrary or capricious. S.C. Code Ann. § 1-23-

610(B). Questions of statutory and regulatory interpretation are questions of law and are reviewed de novo. *S.C. Dep't of Revenue v. Blue Moon of Newberry, Inc.*, 397 S.C. 256, 260, 725 S.E.2d 480, 483 (2012); *Bolin v. S.C. Dep't of Corr.*, 415 S.C. 276, 281, 781 S.E.2d 914, 917 (Ct. App. 2016).

Courts may afford deference to an agency's interpretation of statutes or regulations it administers; however, such deference is not mandatory and is warranted only where the statute or regulation is ambiguous, and the agency's interpretation is reasonable and consistent with legislative intent. *A.O. Smith Corp. v. S.C. Dep't of Health & Envtl. Control*, 428 S.C. 189, 833 S.E.2d 451, 458 (2019). An agency interpretation that conflicts with the plain language of the governing statute or regulation must be rejected. *Davis v. S.C. Dep't of Corr.*, 444 S.C. 138, 150, 906 S.E.2d 569, 575 (2024); *Brown v. Bi-Lo, Inc.*, 354 S.C. 436, 440, 581 S.E.2d 836, 838 (2003). Regulations are interpreted using the same rules of construction as statutes and the cardinal rule of statutory construction is to ascertain and give effect to the intent of the legislature. *Charleston County Sch. Dist. v. State Budget and Control Bd.,* 313 S.C. 1, 437 S.E.2d 6 (1993); *Murphy v. South Carolina Dept. of Health and Environmental Control*, 396 S.C. 633, 723 S.E.2d 191 (2012). If a statute's language is plain, unambiguous, and conveys a clear meaning "the rules of statutory interpretation are not needed and the court has no right to impose another meaning." *Hodges v. Rainey,* 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000).

ARGUMENT

This appeal presents a purely legal question of statutory and regulatory interpretation. The material facts concerning the existing Hilltop Landfill and the proposed Rabbit Hill Landfill are not disputed. The sole issue is whether, under Regulation 61-107.17 and S.C. Code Ann. § 44-96-290(E), a landfill with a materially increased overall size and total disposal capacity may be permitted as a "replacement facility" without a Demonstration of Need. Because that question

turns entirely on the meaning and interaction of governing law, it must be resolved as a matter of law.

Our state Solid Waste Act provides unequivocally that "[n]o permit to construct a new solid waste management facility or to expand an existing solid waste management facility may be issued until a Demonstration of Need is approved." S.C. Code Ann. § 44-96-290. This Demonstration of Need ("DON") requirement is a cornerstone of landfill permitting in South Carolina, as it forces both regulators and applicants to justify *why* a landfill is necessary before exposing communities and the environment to its impacts. This statutory text, directly from our legislature, reflects a deliberate policy choice to limit landfill development to circumstances of genuine public necessity. And, since its passage, the fate of proposed landfills has consistently turned on an applicant's ability to show need. See, e.g., Engaging & Guarding Laurens Cty.'s Env't v. S.C. Dep't of Health & Env't Control, 407 S.C. 334, 755 S.E.2d 444 (2014); Ballenger v. S.C. Dep't of Health & Env't Control, 331 S.C. 247, 500 S.E.2d 183 (Ct. App. 1998).

Landfills inherently carry risks, including groundwater contamination, air pollution, habitat disruption, and long-term land use constraints. See S.C. Code Ann. § 44-96-20(A)(9). And, without the need requirement, these facilities and their impacts can be clustered in areas with fewer political or economic resources. See id. §§ 44-96-240. For these and other reasons, South Carolina engages in statewide solid waste planning to manage disposal capacity, prevent overdevelopment of landfill capacity, and protect communities from unnecessary impact. See id. §§ 44-96-20, -50. The DON requirement is a primary mechanism through which the General Assembly ensured that landfill development remains consistent with these objectives.

Considering the very deliberate policy choices apparent in the Solid Waste Act and the subsequent case law, the agency decision underlying this case is irreconcilable. As will be

demonstrated below, B&K Grading and Paving ("B&K") purchased an old landfill that was nearly at capacity. That landfill, miniscule by commercial landfill standards, was only 2.3 acres in size and had been used for many years by one small business. B&K purchased this landfill because it believed that doing so would allow it to avoid the DON requirement for a new landfill it was planning. Specifically, B&K intended to make use of a landfill regulation allowing a limited variance from the DON requirement to "replace" an existing landfill with a new one having the same annual disposal rate. See S.C. Code Ann. Regs. R.61-107.17(D)(6).

In short order, B&K did indeed apply for that DON replacement variance for a new landfill. As for the proposed new landfill—the purported "replacement"—it would occupy 293 acres of a 535-acre property, dwarfing the 2.3-acre facility B&K had acquired. Then, to top it off, *after* applying to replace the old landfill and avoid the DON, B&K sought to double the annual disposal rate at the existing landfill, so that the new facility would be able to operate at that same elevated limit. DES approved all of this, seemingly without hesitation.

According to the Administrative Law Judge who considered this case, the new landfill is "unquestionably not comparable" to the one it purportedly replaces. (Order, p. 5, R. p. **008**). Specifically, Judge Lenski wrote of the "vast disparity in size between the two facilities," with the new landfill being "substantially larger." (Order, pp. 9, 13, R. pp**. 016, 012**). Indeed, Judge Lenski wrote, B&K's use of the DON exemption to achieve the result here "is unmistakably pushing the upper limits of logic and reason" and is an "extreme example." (Order, pp. 11-12, R. pp. **014-015**) (emphasis added)).

Yet, both the Department of Environmental Services ("DES") and the ALC have now approved a DON variance for the new landfill. A 2.3-acre landfill has been "replaced" by a 293-acre facility with double the annual disposal rate, without any showing the new landfill is needed.

And, by approving this outcome, the Agency and the Court have also effectively endorsed B&K's underlying strategy, thereby clearing the way for other applicants to pursue the same approach.

Appellant has presented various arguments below for reversing the Agency and ALC and for rejecting this misuse of the DON variance. Perhaps most persuasive, though, is the simple, common-sense proposition that the legal framework created by the Solid Waste Act cannot have been intended to facilitate an outcome like the one challenged here. Whether the error lies in DES's interpretation of its own regulation, in the regulation itself, or elsewhere, it is impossible to read the Solid Waste Act and its plain statement on need and conclude that the result here is supported. While the ALC became ensnared in the rhetorical parsing of the applicable regulation, arriving at an outcome that is seemingly contrary to even the Judge's own feelings on the case, this Court has the opportunity to move beyond that parsing, to enforce the statute as written, and to reject a plainly absurd outcome.

LEGAL FRAMEWORK

Once again, the South Carolina Solid Waste Policy and Management Act ("Solid Waste Act") provides plainly that: "No permit to **construct a new** solid waste management facility or to **expand an existing** solid waste management facility may be issued until a demonstration of need is approved by the department." S.C. Code Ann. § 44-96-290(E) (emphasis added). While it isn't necessary to understand all the details of DON in order to resolve this contested case, suffice it to say that the DON requirement is effectuated by drawing a circle around a proposed landfill site and counting the number of existing landfills therein (the "circle test"). See S.C. Code Ann. Regs. R.61-107.17(D). A proposed landfill cannot satisfy the DON requirement, and thus will not be permitted, if sufficient landfills already exist within the planning area denoted by the circle. Id. In this way, the DON requirement serves a vital role in preventing certain communities—especially those that are low income, rural, or otherwise vulnerable—from being overrun by landfill facilities.

Unlike the Solid Waste Act, DES's regulations provide for a potential variance from the DON requirement. Notably, those regulations first state the DON requirement unequivocally in virtually the same form as the Act.[1] But, then, a two limited exceptions follows:

> 6. Variance in regard to demonstration of need. The Department shall grant a variance to the [DON requirement] for Class Two[2] and Class Three solid waste landfills according to the following conditions:
>
> > a. An operating Class Two or Class Three landfill shall receive a **variance to construct a replacement** Class Two or Class Three landfill at its permitted annual rate of disposal provided it meets all of the following conditions:
> >
> > …
> >
> > (2) The landfill has a permit issuance date on or before the effective date of this Regulation.
> >
> > (3) The landfill exhausts its permitted capacity at its current location.
> >
> > …
> >
> > b. A Class Two or Class Three landfill shall receive a **variance to expand the volume** of an existing facility.

Id. at R.61-107.17(D)(6) (emphasis added). Subsection (D)(6)(a) represents the so-called "replacement variance" to the DON requirement, and (D)(6)(b) represents the so-called "expansion variance" to the DON requirement. In basic terms: the owner of an existing landfill can expand the volume of that landfill onsite without making a new DON showing; or, if a landfill predates the DON regulations and has reached capacity, the owner of that landfill may build a "replacement" facility, having the same annual disposal rate, without making a new DON showing.

Determining the meaning of "replacement" landfill is the core of this appeal, and getting to that answer requires resolving the interplay between the two variances and their mutual exclusivity. On that question, section (D)(6)(e) is instructive. It provides:

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[1] "No permit to construct a new or to expand the volume or capacity of an existing … solid waste landfill shall be issued until a final demonstration-of-need and a consistency determination are approved by the Department." Id. at R.61-107.17(C)

[2] The landfill at issue in this case is a construction and demolition landfill, which is Class 2.

> e. An eligible facility shall apply to the Department for a variance to replace *or* expand the volume of an existing facility prior to exhausting: (1) its permitted capacity, or (2) the operational life of the facility. A facility *shall not operate under an expansion variance and a replacement variance simultaneously, with the exception of a reasonable transition period* as determined by the Department.

Id. at R.61-107.17(D)(6)(e) (emphasis added). Appellant has highlighted the operative language, which emphasizes the alternative nature of the variances ("or") and prohibits their concurrent use. The import of these highlighted provisions is discussed in detail further herein.

This appeal rests upon a simple legal framework and presents two straightforward legal questions: (1) whether, under a proper reading of R.61-107.17(D)(6), B&K's new landfill is entitled to a DON variance; and (2) if so, whether that result is contrary to the Solid Waste Act and therefore invalid.

STATEMENT OF THE FACTS

In 1995, G.L. Williams applied for and was granted a permit for a small construction and demolition (C&D) landfill in Aiken County, South Carolina. (ALC Order, p. 2, R. pp**. 005, 278**). Over the years, this landfill has been consistently reported as having a disposal area of only 2.3 acres. Id. In fact, the landfill "was utilized solely as a disposal area for C&D materials collected during [G.L. Williams'] business operations." (Report from G.L. Williams' Consultant, p. 4. (R. p. **005**) The *total* permitted capacity of the landfill from the outset was 225,186 cubic yards.[3] (ALC Order, p. 2, R. pp. **005**, **227**. In other words, this landfill, which came to be known as Hilltop landfill, was permitted as a small facility for use by one small business. And, for many years, the annual disposal rates at Hilltop landfill bore out this limited purpose. For example, while Hilltop

[3] Based on DES's most recent annual solid waste report, six C&D landfills in the state are approved to accept more than that amount of waste on an *annual* basis. (2025 Solid Waste Management Annual Report, p. 30. **This is a citation to a publicly available document and was not submitted to the ALC as an exhibit.**).

landfill was initially permitted to accept up to 25,000 cubic yards of waste per year (equivalent to 15,000 tons), the annual disposal totals were more often closer to the 3,208 tons disposed in 2017. (Order, p. 2, R. pp. **005**, **282**).

After many years of operating in this manner, Hilltop (along with its landfill permit) was purchased by B&K Grading and Paving in 2019.[4] Id. B&K purchased the 24-year-old, nearly at-capacity landfill based on its belief that doing so would allow it to construct a new landfill without satisfying the Demonstration of Need requirement. (B&K Email Correspondence, p. 3., R. p**. 285)** ("It was explained to us during the negotiations for the sale of [Hilltop landfill] that the current permit could be moved, one time, 20 miles in any direction within the county."). In other words, B&K purchased Hilltop Landfill for the purpose of closing out that facility and leveraging it to open a new landfill through use of the DON replacement variance in R.61-107.17(D)(6)(a).

On April 25, 2023, B&K did indeed apply for a variance from the DON requirement in order to "replace" Hilltop landfill with a new facility called Rabbit Hill landfill.[5] (ALC Order, p. 3, R. p. **006**). However, B&K's plans for Rabbit Hill go very far beyond the limited size, limited purpose facility that is Hilltop Landfill. Indeed, after acquisition of Hilltop Landfill, B&K set about

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[4] B&K owns the business entity known as Hilltop C&D, LLC, which operates Hilltop Landfill and is the applicant in this case. (ALC Order, p. 2, R. **005).**

[5]While DES later corrected B&K, the proposal was in actuality presented as an expansion variance request. By correspondence dated April 25, 2023, the professional engineering firm hired by Hilltop LLC states as follows: "The purpose of this letter is to officially request the South Carolina Department of Health and Environmental Control (DHEC) to make a determination on the demonstration of need (DON), and consistency with solid waste management plans, zoning, and certain buffers for this *landfill expansion request*." (Smith+Gardner Correspondence, p. 1, R. p. **437**) Note that this is not a casual misstatement by Hilltop LLC's engineers. The subject line of the letter is "Class 2 Landfill *Expansion* Letter of Request," and the writer explains therein that "Hilltop intends to *expand* their Class Two landfill facility on a portion of the property (Subject Property) located off Dixie Clay Road, Beech Island, Aiken County, South Carolina. The Subject Property to be utilized for the *Hilltop expansion* is currently owned by two (2) separate entities." Id. (emphasis added).

acquiring a 535-acre tract—a former clay mine—and developing plans for a massive C&D landfill with a disposal footprint of 293 acres. Id. The 293-acre Rabbit Hill landfill is proposed to "replace" the 2.3-acre Hilltop Landfill, which B&K acquired despite its already limited remaining capacity. Id.

Remarkably, B&K then applied to double the annual disposal rate at Hilltop *one month after* applying to replace that landfill with Rabbit Hill. Id. In its April correspondence with DES, B&K specified: "Hilltop landfill will reach its disposal capacity in the near future." (Smith+Gardner Correspondence, p. 1, R. p. **437**). This of course makes sense, as Hilltop was nearly full at the time of B&K's purchase. Yet, fifteen days after making that representation to the Agency, B&K submitted a second application to DES, requesting an annual disposal increase at Hilltop from 57,500 tons/year to 107,500 tons/year. (ALC Order, p. 3, R. p. **006**). To be clear, Hilltop Landfill has never come close to exceeding its original 57,500-ton annual limit, much less the doubled limit subsequently approved by DES. To wit, in 2024, following the doubling of its permitted annual disposal rate, the Hilltop Landfill accepted 25,500 tons of waste. (ALC Order, p. 3, R. p. **006**).

As explained more fully below, B&K's seemingly inexplicable actions—purchasing a nearly full landfill, seeking to replace it with a new facility, and then requesting to double the existing landfill's annual capacity—make sense only when viewed as a strategy to maximize manipulation of the DON variance regulations.[6] Regardless, DES approved the doubling of

[6]For the time being, note that those regulations provide that a "replacement" landfill is limited to the *same annual disposal rate* that is permitted for the landfill being replaced: "An operating … landfill shall receive a variance to construct a replacement … at its permitted annual rate of disposal…." S.C. Code Ann. Regs. R.61-107.17(D)(6). Thus, by pretextually doubling Hilltop's annual disposal, B&K boosted the allowable annual disposal at its massive new "replacement" facility.

Hilltop's annual disposal limit on January 12, 2024, despite the pending application to "replace" that landfill, and then approved Rabbit Hill as a replacement, exempting the Demonstration of Need requirement, on July 17, 2024. (ALC Order, p. 3, R. p. **006**).

As for that Demonstration of Need, it is apparent that B&K could not make the requisite showing if not for its pretextual use of the DON variance. While B&K has not conceded this fact, it has also not introduced any evidence to the contrary, and its labored course of action here makes the truth readily apparent. Had B&K simply submitted the plan for Rabbit Hill, without first acquiring Hilltop landfill, the Rabbit Hill landfill could not and would not be permitted. This is necessarily true, as too many other C&D landfills already exist in the area, and the proposed location of Rabbit Hill landfill would fail the "circle test" in the DON regulations. (DON Map from 2023 DHEC Annual Solid Waste Report (R. p. **291**)). In other words, as a matter of law, the massive 293-acre Rabbit Hill landfill is not needed. Yet, through strategic acquisition of Hilltop landfill, a small facility at the end of its life, Hilltop LLC has (thus far) been successful in virtually nullifying the vital DON requirement. The Horse Creek Valley community is set to bear the cost of this maneuvering.

I. The Agency's interpretation of R.61-107.17(D)(6) is Contrary to the Solid Waste Act.

Later in this brief, Appellant will examine the text of the DON variance regulation in detail and explain how the Agency has misapprehended and misinterpreted that regulation's plain language. To start, though, it is worth highlighting how DES and the ALC stretched that plain language interpretation as far as possible in opposition to the Solid Waste Act, rather than in support thereof. More specifically, to the extent ambiguity and interpretive discretion exists within the DON variance regulation, DES (and, in turn, the ALC) consistently exercised that discretion

in a manner that undermines its enabling Act. That approach is of course the exact opposite of what settled principles of statutory and regulatory construction dictate.

When an administrative agency's interpretation of a regulation is contrary to the underlying statute, that interpretation must be rejected. See Brown v. Bi-Lo, Inc., 354 S.C. 436, 440, 581 S.E.2d 836, 838 (2003) ("We recognize the Court generally gives deference to an administrative agency's interpretation of an applicable statute or its own regulation. Nevertheless, where, as here, the plain language of the statute is contrary to the agency's interpretation, the Court will reject the agency's interpretation."); Davis v. S.C. Dep't of Corr., 444 S.C. 138, 150, 906 S.E.2d 569, 575 (2024) (stating same); Sierra Club v. S.C. Dep't of Health & Env't Control, 426 S.C. 236, 253, 826 S.E.2d 595, 604 (2019) (quoting Brown).

That is to say, even where an agency's interpretation of a regulation falls within its discretionary authority under the regulation's plain language, it cannot stand if it conflicts with the governing statute.

The Court is by now familiar with the Solid Waste Act's plain requirement for a Demonstration of Need: "No permit to construct a *new* solid waste management facility or to expand an *existing* [one] may be issued until a demonstration of need is approved." S.C. Code Ann. § 44-96-290. Beyond just this single provision though, the legislature's intent to constrain landfill proliferation is a unifying thread running through the statute. For example, the Act regionalizes planning for landfill capacity and geographic distribution, reflecting a policy of discouraging redundant facilities and promoting fewer, strategically located sites. See S.C. Code Ann. § 44-96-80. The Act also reflects a policy to decrease reliance on landfills, not expand it: "It is the policy of this State to promote appropriate methods of solid waste management prior to utilizing the options of disposal in landfills." See Id. at § 44-96-50(A). See also, Id. at 44-96-

20(B)(8); Id. at 44-96-50(F) ("These goals must be established in a manner so as to attempt to further reduce the flow of solid waste being disposed of in municipal solid waste landfills and solid waste incinerators.").

Overall, the Solid Waste Act reflects a consistent legislative policy to limit landfill development to what is demonstrably necessary, to prevent overconcentration within defined planning areas, and to shift the state away from overreliance on landfill development. If not clear from the Act's express requirement that a DON is always necessary, it should be apparent from a reading of the statute as a whole that DES's regulations should be interpreted to favor requiring a demonstration of need for new capacity and narrowly constraining any avenues for circumventing that requirement.

Yet here, DES appears to have proceeded from the opposite premise, applying the regulations in a manner that maximizes opportunities to circumvent the vital DON requirement. To make the point concrete, what follows is just two examples of where the ALC and DES missed (or rejected) opportunities to affirm the Solid Waste Act. They are not isolated but rather reflect a consistent pattern in how DES has applied the regulation in this case.

First, within the landfill regulations, "expansion" is expressly defined to denote an increase in total capacity, while "replacement" is left undefined. That asymmetry is significant because it confirms that nowhere in the regulations is "replacement" tied to an increase in landfill size. More importantly, the absence of a definition afforded DES ample discretion to interpret "replacement" in a manner consistent with the Solid Waste Act. Namely, if "replacement" is read to not include meaningful capacity increase, it constrains the variance and thereby protects the Act's DON provision and related policies.[7] Instead, DES took the opposite course, using the flexibility of an

[7] Further analysis of this issue is provided in the sections that follow.

undefined term to authorize maximum capacity increases outside the confines of the Act's DON limitation. In doing so, the Agency exercised its discretion in precisely the opposite direction of the statute's design and purpose.

As another example, the Agency's interpretation of subsection (D)(6)(e) follows a similar pattern. That subsection within the variance regulations specifies that "[a]n eligible facility shall apply to the Department for a variance to *replace or expand the volume of an existing facility*." *Id*. at R.61-107.17(D)(6) (emphasis added). Once again, that phrasing, particularly the separation of "replace" and "expand," afforded DES interpretive room it could have used to align its reading with the Solid Waste Act. Read naturally, the "or" presents two distinct options: a variance either to "*expand* the volume of an existing facility" or to "*replace* the volume of an existing facility." In this reading, the replacement variance is limited to size of the facility being replaced, and intrusion upon the Act's DON limitation is again minimized. DHEC clearly had discretion to choose this interpretation to promote consistency with the Act. Instead, DES and the ALC have chosen to read this provision as authorizing variances to "replace" or "expand the volume of an existing facility," defeating a clear opportunity to constrain the volume of replacement facilities. Even assuming that reading can be squared with the text, it clearly runs counter to the interpretation the Agency should have adopted in light of the Solid Waste Act and its policies.

These two examples are merely illustrative of DES's broader and consistent misuse of its interpretive discretion in a manner that conflicts with the Solid Waste Act. Both provisions, along with others discussed below, afforded DES sufficient interpretive flexibility to be construed in a manner that advances the enabling Act's language and policy priorities. Indeed, Appellants submit that far less interpretive discretion was required to read these provisions in favor of requiring a Demonstration of Need than DES exercised to reach the opposite result. Yet, in service to the

industry these provisions are supposed to regulate, both DES and the ALC have strained to unnecessarily minimize the DON requirement.

DES's arguments in this case, and the ALC's analysis, fixate on whether the Agency's reading of the regulation can be stretched far enough to fit within its text. But that framing misses the more fundamental question, which is: why would DES exercise interpretive discretion in a manner that departs from, rather than advances, the Solid Waste Act's policies? Where the Agency is afforded discretion, that discretion should be exercised in a manner consistent with the governing statute, not in a way that presses against it. As reflected throughout this brief, that principle was not followed here.

II. The Agency's interpretation of R.61-107.17(D)(6) is Contrary to its Own Terms.

Even if the Agency and ALC had been operating on a neutral playing field in relation to interpretation of R.61-107.17(D)(6), with no influence from the Act authorizing that regulation, the interpretation they adopted still runs significantly afoul of what is clearly the written intent of the regulation.

A. The ALC misapprehends the plain meaning of "replacement."

Among other uses of the term, subsection (D)(6) provides that: "An operating Class Two or Class Three landfill shall receive a variance to construct a r*eplacement* Class Two or Class Three landfill at its permitted annual rate of disposal." R.61-107.17(D)(6) (emphasis added). Based on its position in this case, DES had no difficulty concluding that a new facility with a footprint 127 times larger than the existing site nonetheless qualifies as a "replacement" of that smaller facility. Indeed, the Agency was so eager to facilitate this interpretation that, as noted previously, it allowed B&K to double the annual disposal rate at the existing facility (Hilltop) so its larger counterpart (Rabbit Hill) could operate at full tilt. As for the ALC, while noting that Rabbit Hill is

"unquestionably not comparable" to Hilltop, it resolved that Rabbit Hill was nevertheless a "replacement" for Hilltop under the regulations.

Contrary to the ALC's holding in this case, Appellant submits a facility that is "unquestionably not comparable" to the one it purports to succeed cannot reasonably be deemed to meet the definition of a "replacement" under these regulations.

To start, the ALC correctly noted the typical dictionary definition of "replacement" as "one that replaces another especially in a job or function." (ALC Order, p. 9, R. p. **012**). See also, r*eplace*, Merriam-Webster.com Dictionary, https://www.merriam-webster.com/dictionary/replace (last visited Apr. 19, 2026). (defining "replace" as "*to take the place of* especially as a substitute or successor"). Yet, the ALC failed to grasp how this definition and others like it emphasize continuity of role rather than enlargement. Phrases like "take the place of" describe occupying the same position or role as the original, not enlarging or augmenting it, and thus naturally convey substitution rather than expansion. Indeed, any layperson would understand that a facility with more than 100 times the footprint and perhaps 1,000 times the volume of another cannot reasonably be said to replace the function of the smaller facility.

More significantly, across multiple areas of law, "replacement" is consistently understood to mean like-for-like substitution, not material expansion or alteration. In insurance law, for example, "replacement value" is universally understood as the amount necessary "to replace a specific item with *one of similar kind and quality*." *Replacement Value*, Legal Information Institute, Cornell Law School, https://www.law.cornell.edu/wex/replacement_value (last visited Apr. 20, 2026) (emphasis added). See also Conway v. Farmers Home Mut. Ins. Co., 26 Cal. App. 4th 1185, 1191-92 (1994) ("the term [replace] also includes the notion of substituting for an original item another item which serves the same function as the original."). Indeed, it is self-

evident to anyone who has ever insured property that a policy covering "replacement" would not pay out for an item 127 times larger or more valuable than the original. Rather, such language necessarily contemplates an identical or comparable substitute, not a dramatic upgrade. See, e.g., Fitzhugh 25 Partners, L.P. v. KILN Syndicate KLN 501, 261 S.W.3d 861 (Tex. App. 2008) (insured's contention that purchasing an office park was a "replacement" for a multifamily apartment complex destroyed by fire was rejected because the word "replacement" in an insurance policy inherently contains the element of functional similarity); Seeber v. Gen. Fire and Cas. Co., 19 N.E.3d 402, 411-12 (Ind. App. 2014) ("replacement" coverage did not permit insured to replace destroyed commercial property with residential condominiums because properties were not used for same purpose); De Ruyter v. Am. Fam. Mut. Ins. Co., 686 N.W.2d 736, 740 (coverage to "replace" a damaged bumper included cost of comparable used bumper, not a new one).

South Carolina cases unsurprisingly reflect the same understanding of the term. See Columbia Coll. v. Pennsylvania Ins. Co., 250 S.C. 237, 157 S.E.2d 416 (1967) (discussing replacement cost as the amount necessary to repair a destroyed building or buy a new version of the same building.); Aiken v. Home Ins. Co., 137 S.C. 248, 134 S.E. 870, 872 (1926) (discussing "replacement cost" as "what it would cost the owner to restore the building to its former condition.").

Beyond the insurance context, examples from other environmental regulatory and statutory schemes are common. For example, the Clean Air Act's regulations are clear that a "replacement unit" is one "identical to or functionally equivalent" to what is being replaced and "does not alter the basic design parameters." 40 C.F.R. § 52.21(b)(33). Indeed, DES need look no further than its own regulations, which, in the context of wastewater facility permitting, exclude from the permitting requirement "replacement of a component" but make clear that this means the "same

or similar" component and does not facilitate a change in capacity. See R.61-67.100(C)(2) ("Replacement of a component (same or similar), as long as there is no change in capacity.").

While further examples are potentially boundless, Appellant will conclude with one final example underscoring the inherent flaw in the ALC's reasoning. That is, in Carjow, LLC v. Simmons, this Court explained that "replacement cost" for the purpose of recovering property damage is the expense "of *comparable* ceiling fans/lights." 349 S.C. 514, 518, 563 S.E.2d 359, 361 (Ct. App. 2002) (emphasis added). Even in the routine context of property damages, a replacement must be comparable to what was lost and not something materially larger or different. The ALC's conclusion that a facility "unquestionably not comparable" can nonetheless qualify as a "replacement" here is fundamentally inconsistent with how that term is understood in South Carolina law and in many other jurisdictions and legal contexts.

Taken together, these authorities reflect a settled and cross-cutting legal principle: absent clear language to the contrary, "replacement" denotes a substantially equivalent or comparable substitute. That is, one preserving existing function and capacity. Reading "replacement" to encompass dramatic increases in size or capacity departs from that ordinary meaning and collapses the distinction between replacement and expansion that the DON regulatory scheme is designed to maintain. Additionally, tying this together with Section I of this brief, it is particularly egregious that the ALC and DES adopted this as their interpretation of "replacement," when a more reasonable reading was so easily within reach, solely to reach an outcome that conflicts with the Solid Waste Act. Accordingly, the ALC's Order and the DON variance determination cannot stand, as they rest on an unreasonable misinterpretation of the term "replacement" in the context of R.61-107.17(D)(6).

B. The ALC misapprehends the capacity-based distinction between expansion and replacement.

Further confirming that DES has unreasonably interpreted its own regulation is its failure to give effect to the capacity-based distinction between "expansion" and "replacement" that plainly emerges from the DON regulation. The ALC inferred from the replacement variance's express reference to annual disposal rate[8] that this constitutes the sole constraint on the size of a "replacement" landfill: "Though the DON variance regulation requires the replacement facility to comport to the permitted annual rate of disposal of the existing facility, it does not contain similar requirement with respect to the size or volumetric disposal capacity of the replacement facility." (ALC Order, p. 9, R. p. **012**). This is a classic case of the ALC missing the forest for the trees, focusing narrowly on one specific provision while disregarding the regulation's broader structure and purpose. This myopic reading overlooks that the DON regulation itself is structured around a capacity-based framework that draws a clear distinction between expansion and replacement.

To wit, Regulation 61-107.17 opens by defining "expand" or "expansion" as "any increase in the permitted volumetric capacity of an existing solid waste management facility." S.C. Code Ann. Regs. 61-107.17(B)(8). This vital definition applies throughout the regulation and establishes a clear, capacity-based rule: any increase in an existing landfill's total permitted capacity constitutes an expansion, and therefore cannot also constitute a replacement. This distinction is established at the outset, well before the regulation turns to the narrow and specific variance provisions.

The remaining regulatory structure reinforces this distinction. After defining "expansion," Regulation 61-107.17 then restates the Solid Waste Act's Demonstration of Need requirement in unequivocal terms, providing that: "No permit to construct a new or to expand the volume or

[8] "An operating Class Two or Class Three landfill shall receive a variance to construct a replacement Class Two or Class Three landfill *at its permitted annual rate of disposal*." S.C. Code Ann. Regs. 61-107.17(D)(6)(a) (emphasis added).

capacity of an existing solid waste landfill shall be issued until a final demonstration of need and a consistency determination are approved by the Department." See Reg. 61-107.17(C). Consistent with the Act, this subsection plainly says that no new capacity may be permitted without a DON. Only after establishing this baseline requirement does the regulation announce the limited variances in subsection (D)(6). This structure, first, plainly confirms that the DON variances are intended to be an exception to, not a rewriting of, the statutory rule on DON. Second, this structure ensures that the limitation on additional capacity without a DON is firmly and universally embedded throughout the regulation. With that baseline in place, any departure from the DON requirement for increased capacity (like for a "replacement" landfill) would surely need to be stated clearly and unequivocally.

This entire capacity-based framework is established before the regulation ever reaches the variance provision, which is why the ALC is fundamentally mistaken in expecting the capacity limitation to be restated in the specific context of the "replacement" variance. If increasing the volumetric capacity of an existing facility constitutes an "expansion," a "replacement" cannot accomplish the same result merely by relocating the facility. Restating that limitation in subsection (D)(6)(a) would have been unnecessary and redundant.

Moving to the text of the replacement variance, (D)(6)(a) allows an operating landfill (predating the regulations) to construct a replacement facility at its permitted annual rate of disposal, if the existing facility has exhausted its permitted capacity. The reference to annual disposal rate, contrary to the grand significance assigned by the ALC, is a limiting condition designed to preserve continuity of service. Contrary to the ALC's conclusion, it does not wholesale redefine "replacement" to exclude capacity considerations or authorize increased total disposal capacity or size.

Finally, the regulation gives one further confirmation of the exclusivity of replacement and expansion by expressly prohibiting a facility from operating under both an expansion variance and a replacement variance simultaneously. See S.C. Code Ann. Regs. 61-107.17(D)(6)(e). That prohibition would be meaningless if "replacement" could also include unlimited increases in total permitted capacity. South Carolina law forbids interpretations that render regulatory language superfluous. The South Carolina Supreme Court has repeatedly held that "[a] statute should be so construed that no word, clause, sentence, provision or part shall be rendered surplusage, or superfluous." State v. Sweat, 386 S.C. 339, 351, 688 S.E.2d 569, 575–76 (2010). By construing "replacement" to encompass substantial capacity increases, the ALC effectively collapses the distinction between replacement and expansion and nullifies (D)(6)(e)'s express prohibition on combining the two.

In all, read as written, Regulation 61-107.17 establishes two distinct and mutually exclusive pathways for landfills seeking relief from the Demonstration of Need requirement. Replacement preserves comparable capacity at the permitted annual rate of disposal when a landfill exhausts its permitted capacity, while expansion authorizes an onsite increase in volumetric capacity. The structure and language of the regulation leading up to the variance provision clearly sets the stage for this dichotomy, and the limited reference to annual disposal rate in the replacement variance is far too slight to overcome that conclusion. Under any reasonable reading of Regulation 61-107.17, only a landfill expansion may entail increased capacity, and the ALC fundamentally erred in holding otherwise.

C. The ALC's regulatory interpretation violates established canons of construction.

To the extent the DON regulation contains ambiguity, the ALC interpreted it in a manner contrary to well-established rules of construction.[9]

To begin, the canon of construction against absurd results is a particularly forceful interpretive principle. Indeed, it operates essentially as a backstop to textual analysis, ensuring that statutes and regulations are not read to produce outcomes the legislature could not have intended. Accordingly, even where an interpretation might be consistent with the literal wording of a statute or regulation, courts will reject it if it leads to an absurd result: "[R]egardless of how plain the ordinary meaning of the words in a statute, courts will reject that meaning when to accept it would lead to a result so plainly absurd that it could not have been intended by the General Assembly." See also Kennedy v. S.C. Ret. Sys., 345 S.C. 339, 351, 549 S.E.2d 243, 249 (2001) (finding statutes should not be construed so as to lead to an absurd result).

As this case illustrates perfectly, the ALC's interpretation of the DON regulation readily produces absurd results. The agency decision under review here cannot have been intended by the General Assembly when it crafted the Act, nor by DES when it initially crafted the regulation. Hilltop was barely a landfill. It was little more than a designated area where a single small business disposed of debris generated in the course of its operations. And it was full. Yet, through the strategic acquisition of what was otherwise a very low-value asset, B&K flipped Hilltop into a 293-acre commercial landfill on a cavernous former clay mine site, with virtually unlimited

[9] Most of the principles that follow are drawn from the context of statutory interpretation, but those principles apply equally here: "Construction of a regulation is a question of law to be determined by the courts, and regulations must be construed using the same canons of constructions as statutes." Kiawah Dev. Partners, II v. S.C. Dep't of Health & Env't Control, 411 S.C. 16, 63, 766 S.E.2d 707, 733 (2014).

potential for total capacity. This massive new landfill could not have been constructed otherwise (because of the DON requirement) but needlessly buying an old site made it possible.

What policy can possibly be promoted by facilitating such an outcome? Certainly, none that is consistent with the Solid Waste Act. Indeed, the result does not reflect a close or debatable policy judgment but rather one that is untethered from any coherent regulatory objective. Instead of ensuring that landfill capacity is developed only where needed, it invites the proliferation of massive new facilities through the acquisition of exhausted, low-value sites and their rebranding as "replacements." An interpretation that produces such a result is not merely questionable, it is nonsensical. And the ALC nearly said as much: "the size … is unmistakably pushing the upper limits of logic and reason." (ALC Order, p. 11, R. p. **14**). Under settled principles of regulatory construction, interpretations leading to absurd outcomes must be rejected, and the ALC's construction of the DON replacement variance cannot stand.

Another oft-repeated principle of construction is that the use of different words within the same statute or regulation is presumed to reflect different meanings. Wachovia Bank v. Schmidt, 388 F.3d 414, 418 (4th Cir. 2004) ("It is a principle of statutory interpretation that different words used in the same statute should be assigned different meanings whenever possible."); Jane Doe No. 1 v. Backpage.com, 817 F.3d 12, 23 (1st Cir. 2016) ("The normal presumption is that the employment of different words within the same statutory scheme is deliberate, so the terms ordinarily should be given differing meanings."). Here, "expansion" is defined in the regulations as any increase in the total capacity of an existing landfill. S.C. Code Ann. Regs. 61-107.17(B)(8). The ALC then also interprets "replacement," an undefined term, to encompass an increase in total capacity of an existing landfill. The distinction between the meaning of "expansion" and

"replacement" under the ALC's reading is minuscule at best and overlaps in its most substantive element. The ALC's interpretation is thereby contrary to this fundamental canon of construction.

Another canon of construction with strong applicability here is the so-called mischief rule, which directs courts to interpret a regulation in light of the problem the legislature sought to remedy, so as to suppress the mischief and advance that remedy. See, Elliot Coal Min. Co. v. Dir., Off. of Workers' Comp. Programs, 17 F.3d 616, 631 (3d Cir. 1994) ("That canon of construction directs a court to look to the 'mischief and defect' that the statute was intended to cure."); Samuel L. Bray, The Mischief Rule, 109 Geo. L.J. 967, 968 (2021) ("The mischief rule instructs an interpreter to consider the problem to which the statute was addressed, and also the way in which the statute is a remedy for that problem. Put another way, the generating problem is taken as part of the context for reading the statute."). Applied here, the mischief the Solid Waste Act was designed to remedy was the unchecked proliferation of landfill capacity, particularly the siting and expansion of facilities without any demonstrated public need. Needless to say, interpreting the regulation to allow substantial new capacity under the label of "replacement" perpetuates the very mischief the Act was enacted to prevent. The ALC's interpretation is thereby contrary to this fundamental canon of construction.

While additional principles of construction could certainly be cited, Appellant will conclude with the rule against implied exceptions, which stands for the principle that courts should not create loopholes by implying exceptions the legislature did not provide explicitly. See United Brick & Clay Workers of Am. v. Deena Artware, Inc., 198 F.2d 637, 644 (6th Cir. 1952) ("Implied exceptions to the express provisions of a statute are not favored."); In re Morse Tool, Inc., 108 B.R. 389, 390 (Bankr. D. Mass. 1989) ("Courts should not create or recognize implied exceptions

to clear statutes unless necessary to prevent results so absurd or unreasonable that they could not fairly be attributable to legislative design.).

This canon operates on multiple levels in this case. First, where the Solid Waste Act expressly requires a Demonstration of Need for "new" or "expanded" landfills and makes no mention of any third category, it violates the rule against implied exceptions to create a "replacement" category that permits a larger facility on a new site while treating it as neither new nor an expansion. Second, the ALC's inference that the absence of an explicit capacity limitation in the replacement variance implies no such limit turns the no-implied-exceptions canon on its head. To the contrary, the regulation would expressly state the absence of a capacity limit for "replacement" facilities if such a significant loophole were intended. Courts do not presume that such a loophole is created by silence.

Taken together, these canons of construction reinforce and independently confirm the errors identified in the preceding sections. These interpretive failures underscore just how far the ALC's analysis departs from settled principles and provide further evidence that its decision cannot be sustained.

III. Regulation R.61-107.17(D)(6) Conflicts with the Solid Waste Act and Is Invalid.

As a final, alternative grounds for reversing the ALC, if this Court deems that DES's interpretation of the DON replacement variance in Regulation 61-107.17(D)(6) is valid and within the Agency's discretion, then it must be true that said regulation conflicts with its enabling statute. Appellant has previously explained how DES's *interpretation* of (D)(6) is contrary to the Solid Waste Act. If the issue is not one of interpretation, though, then the regulation itself is contrary to the Act.

An administrative regulation is valid so long as it is reasonably related to the purpose of the enabling legislation. U.S. Outdoor Advert., Inc. v. S.C. Dep't of Transp., 324 S.C. 1, 3, 481 S.E.2d 112, 113 (1997); McNickel's Inc. v. S.C. Dept. of Revenue, 331 S.C. 629, 634, 503 S.E.2d 723, 725 (1998). However, although a regulation has the force of law, it must fall when it alters or adds to a statute. Id.; S.C. Coastal Conservation League v. S.C. Dep't of Health & Envtl. Control, 390 S.C. 418, 429, 702 S.E.2d 246, 252 (2010). Indeed, a regulation "may only implement the law." McNickel's Inc., 331 S.C. at 634, 503 S.E.2d at 725.

As for the enabling statute: "The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature." Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). The plain language of a statute is the best evidence of legislative intent. Grier v. AMISUB of S.C., Inc., 397 S.C. 532, 538, 725 S.E.2d 693, 697 (2012). "Under the plain meaning rule, it is not the court's place to change the meaning of a clear and unambiguous statute." Hodges, 341 S.C. at 85, 533 S.E.2d at 581.

Together, these legal principles dictate that the Solid Waste Act's plain language controls, and any regulation in conflict with that language is invalid. Here, the regulation (as understood by DES) cannot be squared with the Act's plain language command that "[n]o permit to construct a new solid waste management facility or to expand an existing solid waste management facility may be issued until a Demonstration of Need is approved." See S.C. Code Ann. § 44-96-290(E).

Under DES's reading of the DON variance regulation, any sized landfill may be constructed on a new site without a Demonstration of Need, so long as the project is labeled a "replacement." The Act obviously contains no such exception, providing neither a replacement variance nor any indication that a landfill of Rabbit Hill's magnitude may be constructed without a DON. To the contrary, by requiring a DON to "construct a new" or "expand an existing" landfill,

the legislature undoubtedly intended the DON requirement to be universal for all landfill capacity increases. Nothing in the Act suggests the existence of a third category of landfill, separate from "new" or "existing," that is exempt from the DON. Yet that is precisely what the regulation creates by treating a "replacement" landfill as something altogether different.

Against this backdrop, the only way to avoid a plain and substantial conflict between the Act and subsection (D)(6) is to adopt a highly strained reading under which a facility that is substantially larger than its predecessor, and located on a new site, is somehow neither "new" nor an "expan[sion]" within the meaning of Section 44-96-290(E). The statute does not recognize a third category that avoids both designations. Yet, the Administrative Law Court's interpretation effectively creates such a category, allowing a facility to be neither new nor expanded for purposes of the Demonstration of Need requirement, despite adding substantial disposal capacity. The Act does not permit that result.

A facility that increases overall capacity is, by definition, an expansion. See S.C. Code Ann. Regs. 61-107.17(B)(8). And, if that facility is constructed on a new site and within a new footprint, it is also necessarily a new facility. By permitting Rabbit Hill landfill to expand the footprint of Hilltop by 127 times and to be constructed at a new location, all without a Demonstration of Need, the regulation (under the ALC's and DES's reading) operates in direct conflict with the statute's plain text and mandatory prerequisite.

Drawing from the intent of the legislature, as apparent in the plain meaning of the words themselves, Rabbit Hill is either a "new" landfill, an "expanded" landfill, or both, and the

regulation authorizing Rabbit Hill and other massively expanded facilities like it to be constructed without a DON therefore must be invalid.[10]

Allowing the regulation (under the ALC's and DES's reading) to stand would do more than create an incidental conflict with the Act's plain language. Rather, it would carve a substantial hole in one of the State's most fundamental landfill policies. If expanded replacement facilities are allowed, every little old landfill nearing capacity essentially represents an unrestrained entitlement to construct a massive new landfill without a DON. An applicant desiring to construct a large new facility is incentivized to clear the way for such action by purchasing one of these old landfills and utilizing variances, rather than satisfying the DON and following the normal landfill permitting process. In other words, if variances are allowed for massively expanded replacement facilities, every small, old landfill in the state (like Hilltop) becomes a ready vehicle for the construction of new megadumps untethered from the DON requirement. That outcome would gut the Act's central safeguard and cannot be reconciled with its plain language.

A regulation cannot override or dilute the statute it implements. It must operate within the bounds the legislature has set. Here, by allowing unrestrained additional capacity to be approved without a Demonstration of Need, the regulation does not merely interpret the Act, it contradicts it. As such, the defect is structural, and the regulation itself is invalid.

[10] On the other hand, consider if DES and the ALC employed the interpretation advanced here by Appellant, where "replacement" is neatly confined to comparable landfills built in place of old facilities that predate the DON regulations themselves. Read in that confined manner, the replacement variance could operate as a modest and practical refinement of the Act, accommodating legacy facilities while remaining consistent with the statute's core limitation on new capacity. But, once "replacement" is untethered from comparability and used to justify a facility many times larger than its predecessor, that harmony collapses in favor of irreconcilable conflict.

CONCLUSION

Because the Administrative Law Court adopted an interpretation that conflicts with the regulation's text and the governing statute, summary judgment was granted in error. Here, the dispositive issue is purely legal: whether Regulation 61-107.17 permits a landfill that materially increases overall size and total permitted disposal capacity to be treated as a replacement facility, thereby avoiding the Demonstration of Need requirement in § 44-96-290(E). Because the court resolved that legal question incorrectly, the resulting grant of summary judgment cannot stand. Concomitantly, the ALC's denial of Appellant's motion for summary judgment must be reversed. This case presents a purely legal question of regulatory and statutory interpretation, and no further factual development is necessary. Accordingly, the appropriate remedy is not a remand, but entry of judgment in favor of Appellant.

Respectfully submitted,

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September 14, 2026
Pawleys Island, South Carolina

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
S. Phillip Lenski, Administrative Law Judge

Appellate Case No. 2025-002447
Docket No. 24-ALJ-07-0316-CC

Friends of Horse Creek Valley,

Appellant,

v.

South Carolina Department of Environmental Services and Rabbit Hill Class 2 Landfill,

Respondents.

CERTIFICATE OF COUNSEL FOR APPELLANT'S FINAL BRIEF AND FINAL REPLY BRIEF

I, Michael G. Corley, do hereby certify that Appellant's Final Brief and Final Reply Brief comply with Rule 211(b), SCACR.

Respectfully submitted,

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