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# SOUTH CAROLINA STATE REGISTER

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THE LEGISLATIVE COUNCIL  
of the  
GENERAL ASSEMBLY

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This issue contains notices, proposed regulations, emergency regulations, final form regulations, and other documents filed in the Office of the Legislative Council, pursuant to Article 1, Chapter 23, Title 1, Code of Laws of South Carolina, 1976.

# ***SOUTH CAROLINA STATE REGISTER***

An official state publication, the *South Carolina State Register* is a temporary update to South Carolina's official compilation of agency regulations--the *South Carolina Code of Regulations*. Changes in regulations, whether by adoption, amendment, repeal or emergency action must be published in the *State Register* pursuant to the provisions of the Administrative Procedures Act. The *State Register* also publishes the Governor's Executive Orders, notices or public hearings and meetings, and other documents issued by state agencies considered to be in the public interest. All documents published in the *State Register* are drafted by state agencies and are published as submitted. Publication of any material in the *State Register* is the official notice of such information.

## **STYLE AND FORMAT**

Documents are arranged within each issue of the *State Register* according to the type of document filed:

**Notices** are documents considered by the agency to have general public interest.

**Notices of Drafting Regulations** give interested persons the opportunity to comment during the initial drafting period before regulations are submitted as proposed.

**Proposed Regulations** are those regulations pending permanent adoption by an agency.

**Pending Regulations Submitted to the General Assembly** are regulations adopted by the agency pending approval by the General Assembly.

**Final Regulations** have been permanently adopted by the agency and approved by the General Assembly.

**Emergency Regulations** have been adopted on an emergency basis by the agency.

**Executive Orders** are actions issued and taken by the Governor.

## **2004 PUBLICATION SCHEDULE**

Documents will be accepted for filing on any normal business day from 8:30 A.M. until 5:00 P.M. All documents must be submitted in the format prescribed in the *Standards Manual for Drafting and Filing Regulations*.

To be included for publication in the next issue of the *State Register*, documents will be accepted no later than 5:00 P.M. on any closing date. The modification or withdrawal of documents filed for publication must be made **by 5:00 P.M.** on the closing date for that issue.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Submission Deadline	1/9	2/13	3/12	4/9	5/14	6/11	7/9	8/13	9/10	10/8	11/12	12/10
Publishing Date	1/23	2/27	3/26	4/23	5/28	6/25	7/23	8/27	9/24	10/22	11/26	12/24

## **REPRODUCING OFFICIAL DOCUMENTS**

Documents appearing in the *State Register* are prepared and printed at public expense. Media services are encouraged to give wide publicity to documents printed in the *State Register*.

## **PUBLIC INSPECTION OF DOCUMENTS**

Documents filed with the Office of the State Register are available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 734-2145.

## **ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS**

To adopt, amend or repeal a regulation, an agency must publish in the *State Register* a Notice of Drafting; a Notice of the Proposed Regulation that contains an estimate of the proposed action's economic impact; and, a notice that gives the public an opportunity to comment on the proposal. If requested by twenty-five persons, a public hearing must be held at least thirty days after the date of publication of the notice in the *State Register*.

After the date of hearing, the regulation must be submitted to the General Assembly for approval. The General Assembly has one hundred twenty days to consider the regulation. If no legislation is introduced to disapprove or enacted to approve before the expiration of the one-hundred-twenty-day review period, the regulation is approved on the one hundred twentieth day and is effective upon publication in the *State Register*.

## **EMERGENCY REGULATIONS**

An emergency regulation may be promulgated by an agency if the agency finds imminent peril to public health, safety or welfare. Emergency regulations are effective upon filing for a ninety-day period. If the original filing began and expired during the legislative interim, the regulation can be renewed once.

## **REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW**

Regulations promulgated to comply with federal law are exempt from General Assembly review. Following the notice of proposed regulation and hearing, regulations are submitted to the *State Register* and are effective upon publication.

## **EFFECTIVE DATE OF REGULATIONS**

**Final Regulations** take effect on the date of publication in the *State Register* unless otherwise noted within the text of the regulation.

**Emergency Regulations** take effect upon filing with the Legislative Council and remain effective for ninety days. If the original ninety-day period begins and expires during legislative interim, the regulation may be refiled for one additional ninety-day period.

## SUBSCRIPTIONS

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**TABLE OF CONTENTS**

**REGULATIONS SUBMITTED TO GENERAL ASSEMBLY**

Status and Legislative Review Expiration Dates..... 1

**EXECUTIVE ORDERS**

No. 2004-14 Ordering New Election for Lee County School District 2 Board ..... 2  
No. 2004-15 Suspending Commissioner of Agriculture ..... 2  
No. 2004-16 Ordering New Election Greenville County Council District 18..... 3  
No. 2004-17 Declaring State of Emergency Greenville County ..... 4

**NOTICES**

**HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF**

Certification of Need ..... 6  
Interbasin Transfer of Water from Broad River Basin to Congaree River Basin through the Columbia Canal .... 8  
Notice of Settlement: Blackberry Valley Landfill Site, Greenville County ..... 9  
Underground Storage Tanks ..... 10

**REVENUE, DEPARTMENT OF**

Advisory Opinions ..... 10  
**Errata:** Property Tax Regulations ..... 11

**DRAFTING NOTICES**

**CLEMSON UNIVERSITY, STATE CROP PEST COMMISSION**

Plant Pests ..... 12

**HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF**

Water Pollution Control Permits..... 13

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

Medicaid Provider Policies ..... 14

**LABOR, LICENSING AND REGULATION**

**ENVIRONMENTAL CERTIFICATION BOARD**

Amendments Governing the Board ..... 15

**REVENUE, DEPARTMENT OF**

ABL Regulations ..... 15

**SOCIAL SERVICES, DEPARTMENT OF**

Complaints of Discrimination ..... 16

**TABLE OF CONTENTS**

**PROPOSED REGULATIONS**

**CLEMSON UNIVERSITY, STATE LIVESTOCK-POULTRY HEALTH DIVISION**

Document No. 2916	State Meat Inspection Regulations .....	17
Document No. 2919	State Poultry Regulations.....	18

**LABOR, LICENSING AND REGULATION, DEPARTMENT OF**

**Building Codes Council**

Document No. 2917	International Fuel Gas Code .....	19
Document No. 2918	International Residential Code .....	20

## REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

In order by General Assembly review expiration date  
 The history, status, and full text of these regulations are available on the  
 South Carolina General Assembly Home Page: [www.scstatehouse.net](http://www.scstatehouse.net)

DOC NO.	RAT FINAL NO. ISSUE	SUBJECT	EXP. DATE	AGENCY
2886		Pilot and Apprentice Age Limitations and Pilot Registration	1/11/05	LLR: Commissioners of Pilotage
2887		Residential Builders Commission	1/11/05	LLR: Residential Builders Commission
* 2753		LIFE Scholarship Program	1/15/05	Commission on Higher Education
2889		Barrier Free Design, Building Codes Council	1/17/05	LLR: Building Codes Council
2890		Chapter Revisions	1/17/05	LLR: Manufactured Housing Board
2873		Air Pollution	1/30/05	Department of Health and Envir Control
* 2800		Environmental Protection Fees	2/27/05	Department of Health and Envir Control
2905		Credit for Reinsurance	3/14/05	Department of Insurance
2900		Student Attendance	3/22/05	Board of Education
2897		State Primary Drinking Water	3/28/05	Department of Health and Envir Control
2908		Continuing Insurance Education	4/03/05	Department of Insurance
2906		Repeal Video Poker Regulations	4/03/05	Department of Revenue
2907		ABL - Drive Thru Prohibited	4/03/05	Department of Revenue
2909		Adoption of National Explosives Standards	4/03/05	LLR: Office of State Fire Marshal
2899		Certification Program for Public Librarians	4/10/05	State Library
* 2801		Individual Sewage Treatment and Disposal Systems	4/19/05	Department of Health and Envir Control
2903		Total Maximum Daily Loads for Pollutants in Water	4/24/05	Department of Health and Envir Control
2901		Child Care Centers Licensing Regulations	5/08/05	Department of Social Services
** 2871	<b>R.435 6/7/04</b>	Water Quality Certification		Department of Health and Envir Control

1

- \* Resolutions to disapprove not enacted during 2004 Session
- \*\* Resolutions to disapprove enacted during 2004 Session pending Governor's signature





## **2 EXECUTIVE ORDERS**

### **2004-14**

**WHEREAS**, the South Carolina Democratic Party Executive Committee (“Committee”), pursuant to its authority under Article 5, Section 17, Title 7 of the South Carolina Code of Laws, (1976), as amended, voided the Lee County School Board District Two Democratic Primary held on June 8, 2004, and the Democratic Run-off held on June 22, 2004, due to voting irregularities; and

**WHEREAS**, on July 2, 2004, I received a request from the Committee to set a new primary election for Lee County School Board District Two; and

**WHEREAS**, the Lee County Board of Elections and Registration has requested that the new election be held on September 21, 2004, in order to comply with the notice provisions in the South Carolina Code of Laws and the pre-clearance requirements of Section 5 of the Voting Rights Act of 1965; and

**WHEREAS**, Section 7-13-1170 of the South Carolina Code of Laws (1976), as amended, provides “when any election official of any political subdivision of this State charged with ordering, providing for, or holding an election has neglected, failed, or refused to order, provide for, or hold the election at the time appointed, or if for any reason the election is declared void by competent authority, and these facts are made to appear to the satisfaction of the Governor, he shall, should the law not otherwise provide for this contingency, order an election or a new election to be held at the time and place, and upon the notice being given which to him appears adequate to insure the will of the electorate being fairly expressed. To that end, he may designate the existing election official or other person as he may appoint to perform the necessary official duties pertaining to the election and to declare the result.”

**NOW, THEREFORE**, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby (a) order that a new primary election be held for Lee County School Board District Two on September 21, 2004, or at the earliest possible date and time after September 21, 2004, as is permitted by the United States Department of Justice; and (b) designate the Lee County Board of Elections and Registration to perform the necessary official duties pertaining to the election and to declare the result.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 16th DAY OF JULY, 2004.**

**MARK SANFORD  
Governor**

### **2004-15**

**WHEREAS**, a twelve count indictment was filed against Charles Ray Sharpe on July 28, 2004, in the United States District Court for the District of South Carolina, Columbia Division stating charges of extortion, money laundering, and making false representations in violation of 18 U.S.C. 1951, 18 U.S.C. 1956(a)(1), and 18 U.S.C. 1001, respectively; and

**WHEREAS**, Attorney General Opinion 3-22-84, opined that extortion under 18 U.S.C. 1951 is a crime of moral turpitude; and the South Carolina Supreme Court in *In the Matter of Brenda Joyce Hamer*, 342 S.C. 437, 537 S.E.2d 552 (2000) held that money laundering is a crime of moral turpitude; and Attorney General Opinion 4-3-79 opined that making false representations under 18 U.S.C. 1001 is a crime of moral turpitude; and

**WHEREAS**, a certified true copy of the indictment against Charles Ray Sharpe has been provided to me; and

**WHEREAS**, Charles Ray Sharpe is the Commissioner of Agriculture for the State of South Carolina; and

**WHEREAS**, Article VI, Section 8 of the South Carolina Constitution provides, in pertinent part, that "[a]ny officer of the State or its political subdivisions . . . , who has been indicted by a grand jury for a crime involving moral turpitude or who has waived such indictment if permitted by law may be suspended by the Governor until he shall have been acquitted."

**NOW, THEREFORE**, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby suspend Charles Ray Sharpe from the office of the Commissioner of Agriculture. This suspension shall remain in effect until such time as he shall be formally acquitted or convicted.

This action in no manner addresses the question of the guilt or innocence of Mr. Sharpe and should not be construed as an expression of any opinion one way or another on such question.

This order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 29th DAY OF JULY, 2004.**

**MARK SANFORD**  
**Governor**

**2004-16**

**WHEREAS**, on July 10, 2004, the South Carolina Republican Party Executive Committee ("Committee") upheld the decision of the Greenville County Republican Party Executive Committee, acting pursuant to its authority under Article 5, Section 17, Title 7 of the South Carolina Code, to void the Greenville County Council District 18 Republican run-off election held on June 22, 2004, due to voting irregularities; and

**WHEREAS**, on July 30, 2004, candidate Tony Trout filed a petition for writ of certiorari with the South Carolina Supreme Court challenging the Committee's invalidation of the run-off results and request for a new run-off election; and

**WHEREAS**, on August 4, 2004, the Supreme Court denied the petition for certiorari; and

**WHEREAS**, on August 6, 2004, I received a request from the Committee to set a new run-off election for Greenville County Council District 18; and

**WHEREAS**, the Greenville County Election Commission has requested that the new run-off election be held on September 7, 2004, in order to comply with the notice provisions in the South Carolina Code of Laws and the pre-clearance requirements of Section 5 of the Voting Rights Act of 1965; and

#### **4 EXECUTIVE ORDERS**

**WHEREAS**, Section 7-13-1170 of the South Carolina Code of Laws (1976), as amended, provides “when any election official of any political subdivision of this State charged with ordering, providing for, or holding an election has neglected, failed, or refused to order, provide for, or hold the election at the time appointed, or if for any reason the election is declared void by competent authority, and these facts are made to appear to the satisfaction of the Governor, he shall, should the law not otherwise provide for this contingency, order an election or a new election to be held at the time and place, and upon the notice being given which to him appears adequate to insure the will of the electorate being fairly expressed. To that end, he may designate the existing election official or other person as he may appoint to perform the necessary official duties pertaining to the election and to declare the result.”

**NOW, THEREFORE**, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby (a) order that a new run-off election be held for Greenville County Council District 18 on September 7, 2004, subject to pre-clearance approval prior to this date by the United States Department of Justice, or at the earliest possible date and time after September 7, 2004, as is permitted by the United States Department of Justice; and (b) designate the Greenville County Election Commission to perform the necessary official duties pertaining to the election and to declare the result.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 10th DAY OF AUGUST, 2004.**

**MARK SANFORD  
Governor**

#### **2004-17**

**WHEREAS**, the State of South Carolina has experienced exceptionally heavy rains during July 2004 resulting in severe flooding in Greenville County along the Reedy River; and

**WHEREAS**, as much as six inches of rain fell early on July 29, 2004, in Greenville County, causing flash flooding in the City of Greenville and the western part of the county which resulted in extensive damage to public and private property in Greenville County; and

**WHEREAS**, more than one hundred families are suffering substantial family, personal, and economic hardship, and many are displaced from their homes; and

**WHEREAS**, numerous businesses, churches, and public facilities sustained major damage; and

**WHEREAS**, those victimized by the increasing floodwaters require further assistance from federal, state, and local governments.

**NOW THEREFORE**, by virtue of the power and authority vested in me as Governor, pursuant to the Constitution and Statutes of the State of South Carolina, I hereby declare that a State of Emergency in Greenville County exists as of July 29, 2004, and direct the South Carolina Emergency Operations Plan be placed in effect to support the responsibilities and tasks as warranted by these conditions. I hereby direct the South Carolina Emergency Management Division and all State agencies to take all necessary and prudent actions to

protect the lives and property of the impacted citizens as a result of the severe flooding. I further direct the Division to coordinate with all federal agencies as necessary to secure any available federal disaster assistance for the impacted disaster victims.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 3rd DAY OF AUGUST, 2004.**

**MARK SANFORD  
Governor**

## 6 NOTICES

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication August 27, 2004, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

#### Affecting Anderson County

Renovation for replacement of a mobile Magnetic Resonance Imaging (MRI) System with a fixed 1.5T MRI.  
Anderson Diagnostic Imaging, Inc.  
Anderson, South Carolina  
Project Cost: \$1,657,500

#### Affecting Charleston County

Renovate and add ten (10) additional psychiatric beds for a total of seventy (70) psychiatric beds, ten (10) substance abuse beds, and thirty-two (32) Residential Treatment Facility beds for children and adolescents.  
Palmetto Lowcountry Behavioral Health  
Charleston, South Carolina  
Project Cost: \$331,500

#### Affecting Cherokee County

Addition of twelve (12) nursing home beds that do not participate in the Medicaid (Title XIX) Program for a total of ninety-seven (97) nursing home beds.  
Cherokee County Long Term Care Facility  
Gaffney, South Carolina  
Project Cost: \$29,350

Establishment of an outpatient narcotic treatment program to be located at 103 Stuard Street in Gaffney, South Carolina 29341. (Methadone Treatment Center)  
Gaffney Treatment Associates  
Gaffney, South Carolina  
Project Cost: \$549,000

#### Affecting Edgefield County

Provision of mobile Magnetic Resonance Imaging (MRI) services one day per week.  
Edgefield County Hospital  
Edgefield, South Carolina  
Project Cost: \$167,563

#### Affecting Greenville County

Establishment of an Ambulatory Surgery Center with four (4) operating rooms (OR's) by leasing space from St. Francis Ambulatory Care Center at St. Francis Hospital, Inc.  
The Physicians' Surgery Center at St. Francis  
Greenville, South Carolina  
Project Cost: \$5,008,763

Upgrade of a previously approved 1.5T Magnetic Resonance Imaging (MRI) unit (SC-04-34) with a 3.0T MRI.  
 St. Francis Hospital, Inc.  
 Greenville, South Carolina  
 Project Cost: \$2,518,651

Affecting Orangeburg County

Upfit of shelled space in the Annex Building for the creation of the Breast Center.  
 The Regional Medical Center of Orangeburg and Calhoun Counties.  
 Orangeburg, South Carolina  
 Project Cost: \$2,881,548

Affecting Richland County

Construction for the addition of fifty (50) Acute Care Beds, for a total of 96 licensed acute care, and 18 nursing home beds; addition of two (2) ORs, expansion of the Emergency Department, establishment of Magnetic Resonance Imaging (MRI) service, and expansion and renovation of radiology, dietary, and support services.  
 Providence Hospital Northeast  
 Columbia, South Carolina  
 \$58,836,277

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning August 27, 2004. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 545-4200.

Affecting Beaufort County

Development of a freestanding imaging center providing Magnetic Resonance Imaging (MRI) services to replace the existing MRI currently operated by Beaufort Open MRI, Computerized Tomography (CT) and x-ray services.  
 Beaufort Imaging Center  
 Port Royal, South Carolina  
 Project Cost: \$3,706,155

Affecting Charleston County

Renovate and add ten (10) additional psychiatric beds for a total of seventy (70) psychiatric beds, ten (10) substance abuse beds, and thirty-two (32) Residential Treatment Facility beds for children and adolescents.  
 Palmetto Lowcountry Behavioral Health  
 Charleston, South Carolina  
 Project cost: \$331,500

Affecting Edgefield County

Provision of mobile Magnetic Resonance Imaging (MRI) services one day per week.  
 Edgefield County Hospital  
 Edgefield, South Carolina  
 Project Cost: \$167,563

## 8 NOTICES

### Affecting Greenville County

Upgrade of an existing Non-Spiral, Single Slice Computed Tomography (CT) scanner to a Multi-Slice CT scanner.  
Greenville Memorial Hospital  
Greenville, South Carolina  
Project Cost: \$1,229,153

### Affecting Richland County

Construction for the addition of fifty (50) acute care beds, for a total of 96 licensed acute care beds, and 18 nursing home beds; addition of two (2) ORs, expansion of the Emergency Department, establishment of Magnetic Resonance Imaging (MRI) service, and expansion and renovation of radiology, dietary, and support services.  
Providence Hospital Northeast  
Columbia, South Carolina  
Project Cost: \$58,836,277

Construction of a thirty-two (32) bed nursing home, which does not participate in the Medicaid (Title XIX) Program.  
Wildewood Downs Nursing Center  
Columbia, South Carolina  
Project Cost: \$1,723,500

### Affecting Spartanburg County

Establishment of a twelve (12) bed inpatient hospice.  
The Hospice Home of Grace  
Duncan, South Carolina  
Project Cost: \$3,590,000

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

### PUBLIC NOTICE

Pursuant to S.C. Code §49-21-40 and R.121-12.7, the South Carolina Department of Health and Environmental Control gives notice that the City of Columbia has filed a Class I Interbasin Transfer Application to transfer water from the Broad River basin to the Congaree River basin through the Columbia Canal. The Interbasin Transfer Application is for renewal of an existing Interbasin Transfer Registration (originally issued to South Carolina Electric and Gas Company) for 3,878 million gallons per day, expiring on November 15, 2005. Water is diverted from the Broad River through the canal and discharged into the Congaree River through the Columbia Hydro Dam. The requested duration of the permit is for twenty (20) years to divert a daily average of 3,878 million gallons of water a day.

A copy of the application may be requested by submitting a statement specifying how you will be affected. Any person may submit comments on the application: comments to be considered must be received by the Department by the close of business on November 29, 2004. Any person wishing to receive notification of the permit decision should submit a request for such notification which may be included with your comments. Comments and/or requests should be directed to the address below and reference "City of Columbia Hydro IBT."

Tricia H. Kilgore  
SCDHEC  
2600 Bull Street  
Columbia, SC 29201



**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

Bureau of Land and Waste Management  
Blackberry Valley Landfill Site, Greenville County

**NOTICE OF SETTLEMENT**

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control ("SCDHEC") intends to enter into a Cost Recovery Settlement Agreement with General Electric Company ("Settling Party"). Prior to final execution by SCDHEC, the Cost Recovery Settlement Agreement is subject to a 30-day public comment period, consistent with the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") Section 122, 42 U.S.C. Section 9622 and the South Carolina Hazardous Waste Management Act ("SCHWMA") S.C. Code Ann. Section 44-56-200 (2002).

The Cost Recovery Settlement Agreement relates to the alleged release, and threatened release, of hazardous substances, pollutants, or contaminants at the Blackberry Valley Landfill Site (the "Site"), located in Greenville County, South Carolina, on Groce Road, approximately 1.5 miles from the intersection of S-199 and S-132 and is approximately 4.5 miles northwest of the City of Greenville and approximately one mile east of Pickens County. The Cost Recovery Settlement Agreement provides for recovery of response costs from the Settling Party for the Department's past response actions at the Site. In consideration of the foregoing, the Cost Recovery Settlement Agreement provides for a release of the Settling Party from further liability related to the matters covered by the Cost Recovery Settlement Agreement and confers contribution protection upon the Settling Party pursuant to CERCLA Section 113, 42 U.S.C. Section 9613.

Notice of the proposed Cost Recovery Settlement Agreement has been provided to all identified potentially responsible parties.

Copies of the Cost Recovery Settlement Agreement may be obtained by providing a written Freedom of Information request to the South Carolina Department of Health and Environmental Control at:

Freedom of Information Office  
South Carolina Department of Health and Environmental Control  
2600 Bull Street  
Columbia, SC 29201-1708

Any comments must be submitted in writing, postmarked no later than September 27, 2004, and addressed to:

Jessica J.O. King, Esquire  
Office of General Counsel  
South Carolina Department of Health and Environmental Control  
2600 Bull Street  
Columbia, SC 29201

UPON FINAL EXECUTION OF THE COST RECOVERY SETTLEMENT AGREEMENT, ANY AND ALL CLAIMS BY ANY AND ALL PERSONS AGAINST THE SETTLING PARTY SEEKING CONTRIBUTION FOR MATTERS ENCOMPASSED BY THE COST RECOVERY SETTLEMENT AGREEMENT SHALL BE FORECLOSED.

## 10 NOTICES

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### PUBLIC NOTICE

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Health and Environmental Control evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act. Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and individuals listed below, please submit your comments in writing, no later than September 27, 2004 to:

Contractor Certification Program  
South Carolina Department of Health and Environmental Control  
Underground Storage Tank Program  
Attn: Barbara Boyd  
2600 Bull Street  
Columbia, SC 29201

The following companies and individuals have applied for certification as Underground Storage Tank Site Rehabilitation Contractors:

Class I                      Class II

Dunaway, Fletcher & Moore, Inc.

### DEPARTMENT OF REVENUE

#### NOTICE

The SC Department of Revenue publishes advisory opinions with respect to taxes and regulatory matters administered by the Department. Advisory opinions are intended to provide the public with guidance as to the Department's administrative position. The Department issues four types of advisory opinions referred to as: (1) Revenue Rulings, (2) Revenue Procedures, (3) Private Letter Rulings, and (4) Information Letters.

These advisory opinions are maintained on the Department's website at [www.sctax.org](http://www.sctax.org) under "Tax Policy." This section, in addition to maintaining an index of all advisory opinions, also allows taxpayers to subscribe to an e-mail service so as to automatically receive draft, temporary, and final advisory opinions via e-mail. This e-mail subscription service is free.

In addition, the "Tax Policy" section of the Department's website also maintains an "Advisory Opinion Calendar" that allows the public to track the progress of draft and temporary advisory opinions. The calendar includes information and deadlines on how to provide comments about and suggest alternatives to draft opinions. Upon issuance, a link to the final advisory opinion will be listed on the calendar temporarily and will be then be moved to the topic index.

If you have any questions about the Department's procedures for issuing advisory opinions, contact John McCormack at the Department of Revenue at (803) 898-5138 or [mccormj@sctax.org](mailto:mccormj@sctax.org).

**DEPARTMENT OF REVENUE**

**ERRATA**

This notice is to correct errors made in the numbering of regulations in Document No. 2850 that was published in the State Register, Volume 28, Issue No. 6 (June 25, 2004). The cross reference to Regulation 117-1840.4 in Regulation 117-1780, should have been a cross reference to Regulation 117-1840.2. Furthermore, Regulation 117-1840.5 should be renumbered Regulation 117-1840.3. Any questions about this notice should be addressed to Jerilynn VanStory at PO Box 15, Columbia, SC 29214 or she may be reached at (803)898-5151.

## 12 DRAFTING

### STATE CROP PEST COMMISSION CLEMSON UNIVERSITY CHAPTER 27

Statutory Authority: 1976 Code Section 46-9-40

#### Notice of Drafting:

The State Crop Pest Commission is contemplating amending its regulations concerning plant pests by adding the plant pests listed below. Please address all comments to Dr. David Howle, Department of Plant Industry, 511 Westinghouse Road, Pendleton, S. C. 29670. To be considered comments must be received no later than 5:00 P.M., on September 29, 2004, the close of the drafting comment period.

Achatina fulica	Giant African snail
Adelges tsugae	hemlock wooly adelgid
Agrilus planipennis	Emerald ash borer
Anoplophora malasiaca	Longhorn beetle
Anthonomus grandis	Boll weevil
Apis mellifera scutellata	Africanized honeybee
Aphis glycines	Soybean aphid
Apple proliferation phytoplasma	
Autographa gamma	Silver Y Moth
Cactoblastis cactorum	Cactus moth
Cryptophlebia leucotreta	False Codling Moth
Curculio elephas	European Chestnut Weevil
Cydia funebrana	Plum Fruit Moth
Cylas formicarius elegantulus Summers	Sweet potato weevil
Cylas formicarius Fabricius	Sweet potato weevil
Elsinoe australis	Sweet Orange Scab
Epiphyas postvittana	Lt. Brown Apple Moth
Globodera rostochiensis	Golden Nematode
Guignardia citricarpa	Citrus Black Spot
Halyomorpha halys	Brown marmorated stink bug
Helicoverpa armigera	Old World Bollworm
Helix aspersa Muller	Brown garden snail
Inula britannica	British yellowhead
Lobesia botrana	European Grape Vine Moth
Megalobulimus oblongus Muller	Giant South American snail
Myllocerus undecimpustulatus	Exotic weevil
Parlatoria ziziphi	Black Parlatoria Scale
Peronosclerospora philippinesis	Philippine downy mildew
Phakopsora pachyrhizi	Soybean Rust
Phytophthora ramorum	Sudden oak death, Ramorum canker
Plum pox potyvirus (PPV)	Plum pox virus
Pomacea canaliculata	Channeled Apple Snail
Ralstonia solanacearum race 3 biovar 2	
Solenopsis richteri Forel	Black imported fire ant
Soybean dwarf luteovirus (SbDV)	
Spodoptera littoralis	Egyptian Cottonworm
Spodoptera litura	Cotton Leafworm
Synchytrium endobioticum	Potato wart
Tilletia indica	Karnal bunt
Theba pisana Muller	White garden snail
Tomato black ring nepovirus (TBRV)	

Tomato yellow leaf curl bigeminivirus (TYLCV)	Tomato leaf curl virus
Trogoderma granarium	Khapra beetle
Unaspis yanonensis	Arrowhead Scale
Xanthomonas oryzae pv. oryzicola	Bacterial leaf streak

**Synopsis:**

The above listed deleterious organisms have recently been reported in various locations in the United States or are listed on the Select Agents List of the United States Department of Agriculture.

Legislative review of this proposal will be required.

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
CHAPTER 61**

Statutory Authority: S.C. Code Section 48-1- 10 et seq.; 48-1-87 (Act 258, June 15, 2004)

**Notice of Drafting:**

The South Carolina Department of Health and Environmental Control (Department) proposes to amend R.61-9, *Water Pollution Control Permits*. Interested persons are invited to submit their views and recommendations in writing to Gina L. Kirkland, Water Quality Standards Coordinator, Bureau of Water, 2600 Bull Street, Columbia, South Carolina 29201. To be considered, written comments must be received no later than 5:00 p.m. on September 27, 2004.

**Synopsis:**

On June 15, 2004, the South Carolina Aquatic Life Protection Act (Act 258) was signed by the Governor and became effective for South Carolina. The Act amends the Pollution Control Act by adding section 48-1-87 to address specific issues regarding whole effluent toxicity (WET) testing in the State of South Carolina. Section E. of the Act states, "The Department shall establish formal data quality objectives that define the level of accuracy and precision necessary to correctly evaluate WET test results and shall establish an enhanced laboratory certification program to implement those objectives." In order to comply with this provision of the Act, the Department is proposing to amend R.61-9 to include formal data quality objectives for use in our laboratory certification program. This review will consider several issues to include, but not be limited to, the following:

- Variability criteria in 40 CFR Part 136 (Tuesday, November 19, 2002), *Guidelines Establishing Test Procedures for the Analysis of Pollutants; Whole Effluent Toxicity Test Methods; Final Rule*
- Assessment of potential indigenous South Carolina flora and fauna as suitable test species for WET testing.
- Species specific and/or other taxonomic level specific data quality objectives (DQOs).
- DQOs based on available data collected and reviewed for South Carolina toxicity tests.
- DQOs based on data collected from future studies of representative lakes, streams, and estuaries of the State.
- Numeric and/or descriptive DQOs.
- DQOs specific to hypothesis test and/or point estimate techniques.

## 14 DRAFTING

- DQOs specific to culture validity.
- Laboratory and/or South Carolina-specific DQOs.
- Specifications for collection, reduction, and reporting of toxicity data.
- Incorporation of the DQOs into the toxicity testing laboratory certification program under the South Carolina Environmental Laboratory Certification Program.

Legislative review will be required.

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
CHAPTER 126  
Statutory Authority: 1976 Code Section 44-6-90

### **Notice of Drafting:**

The South Carolina Department of Health and Human Services (DHHS) intends to amend regulations concerning its Medicaid provider policies. The proposed amendments are being made to add specificity to provider conditions of participation and to enhance the South Carolina Medicaid program's ability to curtail wasteful, unnecessary, abusive, and potentially fraudulent activities by certain providers. DHHS is enhancing its ability to identify overpayments made to providers and is implementing procedures to specify record retention policies, define a recoupment, conduct analyses to identify overpayments, implement procedures to collect overpayments, and implement procedures to impose interest and sanctions on providers after considering information submitted by a provider. Interested persons may submit comments in writing or request a copy of the proposed amendments by contacting to Ms. Julie Cook, Director, Division of Program Integrity, 1801 Main Street, Suite M112, Columbia, South Carolina 29202. To be considered, all comments must be received no later than the close of business on September 27, 2004.

### **Synopsis:**

The proposed amendments at Subarticle 2, Chapter 126-425 1) define "recoupment" and "sanction"; 2) define DHHS's record retention policies and require providers to maintain records sufficient to document the amount, scope, and duration of the service for a minimum of five (5) years; 3) permit DHHS to collect overpayments from providers for up to five (5) years from the date a claim was paid; 4) specify DHHS's review activities and process, including sampling of provider records; 5) provide circumstances, conditions, and provider actions that may lead to the collection of overpayments and imposition of sanctions by DHHS; 6) specify the process for notifying providers of overpayments; and 7) specify actions by a provider that may lead to immediate sanctions imposed on a provider by DHHS. These policies and procedures have a vital role in assisting the Department in curtailing potential overpayments, and eliminating unnecessary and wasteful payments to providers.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
ENVIRONMENTAL CERTIFICATION BOARD**

CHAPTER 23

Statutory Authority: 1976 Code Section 40-23

**Notice of Drafting:**

The South Carolina Department of Labor, Licensing and Regulation, Environmental Certification Board proposes to amend current Chapter 51 regulations to conform to the statutory amendments to acts governing the Environmental Certification Board. Interested persons may submit comments to Dona J. Caldwell, Administrator, South Carolina Department of Labor, Licensing and Regulation, Environmental Certification Board, Post Office Box 11409, Columbia, South Carolina 29211-1409.

**Synopsis:**

The South Carolina Environmental Certification Board proposes to amend current Chapter 51 regulations to conform to the statutory amendments to acts governing the Environmental Certification Board. The proposed regulatory amendments conform to those statutory amendments as well as provide general updated language.

**DEPARTMENT OF REVENUE**

Chapter 7

Statutory Authority: 1976 Code Sections 12-4-320 and 61-2-60

**Notice of Drafting:**

The South Carolina Department of Revenue is considering amending SC Regulation 7-200.1 to delete the cooking license provisions of subsection F and replace those provisions with one stating that the holder of a retail permit or license issued pursuant to Title 61 must obtain and maintain a retail sales tax license issued pursuant to Chapter 36 of Title 12. In addition, the provisions will state that if the retail sales tax license is revoked, then the Department will seek revocation of all permits and licenses issued under Title 61. The Department is also considering amending subsection J to clarify that the request for refund applies to the permit or license fee. The proposal to amend SC Regulation 7-200.1 is needed to ensure that taxpayers understand (1) that only a cooking license is needed if a location that offers meals to the public purchases liquor for use solely in the cooking and preparing meals served by the location and not for sale to the public; (2) that all holders of a retail permit or license issued pursuant to the alcoholic beverage laws must also maintain a retail sales tax license for the same location; and (3) that only the permit or license fee is refundable if a timely refund request is received with respect to a permit or license that was not used.

Interested persons may submit written comments to Meredith F. Cleland, South Carolina Department of Revenue, Legislative Services, P.O. Box 125, Columbia, SC 29214. To be considered, comments must be received no later than 5:00 p.m. on September 28, 2004.

**Synopsis:**

The South Carolina Department of Revenue is considering amending SC Regulation 7-200.1 to delete the cooking license provisions of subsection F and replace those provisions with one stating that the holder of a retail permit or license issued pursuant to Title 61 must obtain and maintain a retail sales tax license issued pursuant to Chapter 36 of Title 12. In addition, the provisions will state that if the retail sales tax license is revoked, then the Department will seek revocation of all permits and licenses issued under Title 61. The Department is also considering amending subsection J to clarify that the request for refund applies to the permit or license fee.

## 16 DRAFTING

### DEPARTMENT OF SOCIAL SERVICES

#### CHAPTER 114

Statutory Authority: 1976 Code 43-1-80

#### **Notice of Drafting:**

The South Carolina Department of Social Services, Division of Individual & Provider Rights, proposes to repeal and replace with new regulations 27 S. C. Code Regs. 114-210, et seq., "Complaints of Discrimination." Interested persons should submit their views in writing to L. Lynn McLendon, Director, Individual & Provider Rights, South Carolina Department of Social Services, Post Office Box 1520, Columbia, South Carolina 29202-1520.

#### **Synopsis:**

The regulations in Sections 114-210, et seq., must be brought into line with Federal civil rights laws. These regulations govern the procedure for handling and resolving complaints of discrimination by the Department of Social Services. The regulations must be updated to include various Federal Civil Rights laws, including the Americans with Disabilities Act. The amended regulation will include: a statement of non-discriminatory practices; procedures for filing complaints of discrimination; procedures to be followed by the Department in investigating complaints and taking corrective action; and provisions for compliance reviews by the Department.



Document No. 2916  
**CLEMSON UNIVERSITY**  
**STATE LIVESTOCK-POULTRY HEALTH COMMISSION**  
CHAPTER 27  
Statutory Authority: 1976 Code Section 47-4-30 and 47-17-130

R.27-1023 State Meat Inspection Regulation

**Preamble:**

These regulations are being promulgated to modernize, clarify and update existing regulations which govern, to the extent authorized by S. C. Code, Title 47, Chapter 4, the inspection of meat and meat food products produced for intrastate commerce. These updated regulations are necessary to comply with the Federal Meat Inspection Act (21USCA 661, Section 301) which established Federal-State Cooperative Meat Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations "at least equal to" those adopted by the federal government. This regulation will, in effect, adopt the current Federal Meat Inspection Regulations with some minor exceptions for some state specific requirements. The Notice of Drafting was published in the State Register on May 28, 2004.

**Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be held at the South Carolina Meat-Poultry Inspection Department, 500 Clemson Road, Columbia, S.C. on September 29, 2004 at 10:00 a.m. If no request is received by September 22, 2004 the hearing will be canceled. Written comments may be directed to Dr. Daniel E. Lafontaine, Director, South Carolina Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, SC 29224-2406 not later than September 22, 2004.

**Preliminary Fiscal Impact Statement:**

No additional state funding is requested.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION: State Meat Inspection Regulations

Purpose: To modernize, clarify and update the existing regulations which govern the inspection of meat products produced for intrastate commerce. These updated regulations are necessary to comply with the federal Meat Inspection Act, which establishes the Federal-State Cooperative Inspection Program. This cooperative agreement requires that state regulations be "at least equal to" applicable federal regulations, in return for which the federal government furnishes 50% of the funds required to maintain the state program. These regulations will allow the state program to maintain compliance with the terms of the federal cooperative agreement.

Legal Authority: 1976 Code Section 47-4-30, 47-17-130.

Plan for Implementation: The state meat inspection program has been in existence for many years, implementation of these proposed regulations will clarify and update the existing regulations.

**Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

## 18 PROPOSED REGULATIONS

Document No. 2919

### STATE LIVESTOCK-POULTRY HEALTH COMMISSION

#### CHAPTER 27

Statutory Authority: 1976 Code Section 47-4-30, 47-19-30, and 47-19-170

R 27-1022 State Poultry Regulations

#### **Preamble:**

These regulations are being promulgated to modernize, clarify and update existing regulations which govern, to the extent authorized by S.C. Code, Title 47, Chapter 4, the inspection of poultry products produced for intrastate commerce. These updated regulations are necessary to comply with the federal Poultry Products Inspection Act (21USCA 454, Section 5) which establishes Federal-State Cooperative Poultry Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations "at least equal to" those adopted by the federal government. This regulation will, in effect, adopt the current Federal Poultry Products Inspection Regulations with some minor exceptions for some state specific requirements. The Notice of Drafting was published in the State Register on May 28, 2004.

#### **Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be held at the South Carolina Meat-Poultry Inspection Department, 500 Clemson Road, Columbia, S.C. on September 29, 2004 at 10:00 a.m. If no request is received by September 22, 2004 the hearing will be canceled. Written comments may be directed to Dr. Daniel E. Lafontaine, Director, South Carolina Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, SC 29224-2406 not later than September 22, 2004.

#### **Preliminary Fiscal Impact Statement:**

No additional state funding is requested.

#### **Statement of Need and Reasonableness:**

**DESCRIPTION OF REGULATION:** State Poultry Inspection Regulations  
**Purpose:** To modernize, clarify and update the existing regulations which govern the inspection of poultry products produced for intrastate commerce. These updated regulations are necessary to comply with the federal Poultry Products Inspection Act, which establishes the Federal-State Cooperative Inspection Program. This cooperative agreement requires that state regulations be "at least equal to" applicable federal regulations, in return for which the federal government furnishes 50% of the funds required to maintain the state program. These regulations will allow the state program to maintain compliance with the terms of the federal cooperative agreement.

**Legal Authority:** 1976 Code Section 47-4-30, 47-19-30 and 47-19-170  
**Plan for Implementation:** The state poultry inspection program has been in existence for many years, implementation of these proposed regulations will clarify and update the existing regulations.

#### **Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 2917  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BUILDING CODES COUNCIL**  
CHAPTER 8

Statutory Authority: 1976 Code Section 6-9-40

**Preamble:**

The South Carolina Building Codes Council proposes to update the International Fuel Gas Code, 2000 Edition, to the International Fuel Gas Code, 2003 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, including proposed modification.

NOTE-This article is identical to the International Fuel Gas Code, 2003 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, except for the following modifications:

Section-by-Section Discussion:

Section G505.1.1

Adds language prohibiting bypassing a solenoid valve installed in conjunction with gas piping to a gas appliance when it is part of an interlock system. The requirement pertains to manually operated gas appliances containing pilot lights. Bypassing the valves allows a limited amount of gas flow to continue to the pilot lights during periods of shut down. The volume of gas flow may not be enough to sustain combustion at all open burners, but enough to possibly accumulate in a confined space resulting in a hazardous situation.

This modification also adds an exception allowing an interlock option between cooking appliances and exhaust hood systems if the appliances are manually operated and factory equipped with standing pilot burner ignition systems.

**Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Judge Division at 10:00 a.m. on Tuesday, November 9, 2004. Written comments may be directed to Gary F. Wiggins, Administrator, South Carolina Building Codes Council, Department of Labor, Licensing, and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., October 26, 2004.

**Preliminary Fiscal Impact Statement:**

There will be no cost incurred by the State or any of its political subdivisions.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION:

Purpose: The Council is updating the International Fuel Gas Code, 2000 Edition, to the International Fuel Gas Code, 2003 Edition to conform to the statutory amendments to acts governing the Building Codes Council.

Legal Authority: 1976 Code, 6-9-40.

Plan for Implementation: The amended regulation will take effect upon approval by General Assembly and upon publication in the State Register. LLR will notify local officials and licensees of the amended regulation and post the amended regulation on the agency's web site.

## **20 PROPOSED REGULATIONS**

### **DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:**

The proposed regulation will prevent conflict between existing regulations and new legislation.

### **DETERMINATION OF COSTS AND BENEFITS:**

There is no cost incurred by the state.

### **UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning the regulation.

### **EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

This regulation will have no effect on the environment. This regulation contributes to the Council's function of protecting public health in the state of South Carolina.

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

There will be no detrimental effect on the environment and public health of this State if this regulation is not implemented.

### **Statement of Rationale:**

There was no scientific or technical basis relied upon in the development of this regulation.

### **Text:**

#### Section G505.1.1

Where commercial cooking appliances are vented by means of the Type I or Type II kitchen exhaust hood system that serves such appliances, the exhaust system shall be fan powered and the appliances shall be interlocked with the exhaust hood system to prevent appliance operation when the exhaust hood system is not operating. Where a solenoid valve is installed in the gas piping as part of an interlock system, gas piping shall not be installed to bypass such valve. Dampers shall not be installed in the exhaust system. Exception: An interlock between the cooking appliance and the exhaust hood system shall not be required for appliances that are of the manually operated type and are factory equipped with standing pilot burner ignition systems.

Document No. 2918  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BUILDING CODES COUNCIL**

CHAPTER 8

Statutory Authority: 1976 Code Section 6-9-40

### **Preamble:**

The South Carolina Building Codes Council proposes to update the International Residential Code, 2000 Edition, to the International Residential Code, 2003 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, including proposed modifications.

NOTE—This article is identical to the International Residential Code, 2003 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, except for the following modifications:

Section-by-Section Discussion:

Section R202

Expands definition of “story.” Includes language allowing single and two family residences to be built in accordance with the International Residential Code when there are three habitable stories above a usable story, which is not habitable but exists for the purpose of raising the house above the flood plain.

Section R301.2(2)

Adds most recent seismic design map. Includes a new seismic zone designated as D<sub>0</sub> (D sub zero) that is not included in the 2003 Edition of the International Residential Code, but will be included in the 2006 Edition. The D<sub>0</sub> zone reduces the area of the existing D<sub>1</sub> zone in South Carolina and provides less restrictive, and thus less costly, construction requirements. The Building Codes Council determined that the latest map is conclusive and available for use.

Section R301.2.2

Modifies D<sub>0</sub> design category to establish the design criteria for the new D<sub>0</sub> seismic zone created by the modification to Section R301.2(2).

A moratorium was placed on enforcement of the D<sub>0</sub> (D sub zero) seismic design requirements for those areas in South Carolina designated as D<sub>0</sub>, until adoption of the 2006 International Residential Code. The design requirements for the seismic zone C will be in effect for those areas in South Carolina designated as D<sub>0</sub>.

Section R311.4.3

Adds language and exception to prevent water intrusion at exterior/exit doors.

Section R311.5.3

Modifies language concerning stair geometry to include more logical and flexible design criteria for the stair treads (walking surfaces) and risers (distance between treads).

Section R311.5.6.1

Modifies minimum height for handrails for stairs and ramps to be consistent with prior editions of the code and prior construction practices in South Carolina.

Table R402.2

Deletes requirement for air-entrained concrete for garage floors.

Section R403.1.4.2

Modifies requirement for interior footings supporting bearing or bracing walls and cast monolithically with a slab on grade in Seismic Design Categories D1 and D2 to provide that interior footings will still be placed at a depth where adequate bearing capacity is provided, but will not require them to extend to a point that is deeper than the exterior footings. The modification has also been approved by the International Code Council and will be included in the 2006 Edition of the International Residential Code.

Section R403.1.6

Adds exceptions to allow short walls, which do not provide any significant strength in the main force resisting direction, to be attached with fewer bolts, while still maintaining uplift protection.

Section R403.1.7

Deletes Sections R403.1.7 (Footings on or Adjacent to Slopes); R402.1.7.1 (Building Clearances from Ascending Slopes); R403.1.7.2 (Footing Setback from Descending Slope Surfaces); R403.1.7.3 (Foundation

## 22 PROPOSED REGULATIONS

Elevation); R403.1.7.4 (Alternate Setback and Clearances); figure R403.1.7.1 (Foundation Clearance from Slopes) that establish limitations for sites with varying topography, as they may be more appropriate in local zoning ordinances.

### Table R502.5(1)

Adds an additional table (identified as Table R502.5(1)A) with the existing table, which will allow for the use of standard lumber as an alternative to engineered wood for the fabrication of headers over 6 feet in length.

### Section R502.11.4

Modifies section to allow the approval of roof truss design drawings by local building officials to occur at the time of the framing inspection, rather than at an undefined time prior to installation. The truss design drawings will be required to be provided with the shipment of trusses and be available on the construction site for review by an inspector before installation.

### Section R602.10.5

Adds exception to the section to provide an alternative bracing method for use adjacent to garage door openings.

### Section R802.10.1

Modifies section to allow the approval of floor truss design drawings by local building officials to occur at the time of the framing inspection, rather than at an undefined time prior to installation. The truss design drawings will be required to be provided with the shipment of trusses and be available on the construction site for review by an inspector before installation.

### Chapter 11

Deleted. Eliminates any possible conflicts concerning the insulation requirements for single and two family residential buildings between the International Residential Code and state law.

### Section M1411.4

Modifies the thermal resistivity of the insulation around refrigerant vapor lines from R 4.0 to R 2.5.

### Figure R307.2

Modifies typographical error that unnecessarily changed the dimension of minimum fixture clearance for a water closet from 12 to 15 inches from the center of the bowl to the sidewall or bathtub.

### **Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Judge Division at 11:30 a.m. on Tuesday, November 9, 2004. Written comments may be directed to Gary F. Wiggins, Administrator, South Carolina Building Codes Council, Department of Labor, Licensing, and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., Tuesday, October 26, 2004.

### **Preliminary Fiscal Impact Statement:**

There will be no cost incurred by the State or any of its political subdivisions.

### **Statement of Need and Reasonableness:**

#### DESCRIPTION OF REGULATION:

Purpose: The Council is updating the International Residential Code, 2000 Edition, to the International Residential Code, 2003 Edition to conform to the statutory amendments to acts governing the Building Codes Council.

Legal Authority: 1976 Code, 6-9-40.

Plan for Implementation: Amended regulations will take effect upon approval by General Assembly and upon publication in the State Register. LLR will notify local officials and licensees of the amended regulations and post the amended regulations on the agency's web site.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The proposed regulations will prevent conflict between existing regulations and newer legislation.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment. These regulations contribute to the Board's function of protecting public health in the state of South Carolina.

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

There will be no detrimental effect on the environment and public health of this State if these regulations are not implemented.

STATEMENT OF RATIONALE:

There was no scientific or technical basis relied upon in the development of these regulations.

**Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.