

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

PUBLISHED BY
THE LEGISLATIVE COUNCIL
of the
GENERAL ASSEMBLY

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Published July 24, 2009

Volume 33 Issue No. 7

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.

2009 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	3/13	4/10	5/8	6/12	7/10	8/14	9/11	10/9	11/13	12/11
Publishing Date	1/23	2/27	3/27	4/24	5/22	6/26	7/24	8/28	9/25	10/23	11/27	12/25

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*.

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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) 212-4500.

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.

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Document No. 4084	Phytophthora ramorum Quarantine Expansion

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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: <http://www.scstatehouse.gov/regnsrch.htm>

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3184		SR33-2	Restructuring ATF Regulations - Pyrotechnic Safety	2/10/09	LLR - Board of Pyrotechnic Safety
3202		SR33-2	Requirements for Licensure as a Physical Therapist	2/11/09	LLR - Board of Physical Therapy Examiners
3201		SR33-2	Mobile Dental Facilities and Portable Dental Operations	2/12/09	LLR - Board of Dentistry
3196		SR33-3	S.C. National Guard College Assistance Program	3/09/09	Commission on Higher Education
3207		SR33-3	Board of Veterinary Medical Examiners Chapter Revision	3/11/09	LLR - Bd of Veterinary Medical Examiners
3204		SR33-3	Licensing Standards for Continuing Care Retirement Communities	3/12/09	Department of Consumer Affairs
3199		SR33-4	South Carolina Trauma Care Systems	3/18/09	Department of Health and Envir Control
3206		SR33-4	Application, Renewal and Continuing Education	3/20/09	LLR - Board of Chiropractic Examiners
3209	R5	SR33-3	Operation of Public Pupil Transportation Services	4/07/09	State Board of Education
3214		SR33-5	Fire Prevention and Life Safety	4/22/09	LLR - Office of State Fire Marshal
3215		SR33-5	Fire Prevention and Life Safety for Special Occupancies	4/22/09	LLR - Office of State Fire Marshal
3216		SR33-5	Explosives	4/22/09	LLR - Office of State Fire Marshal
3217		SR33-5	Portable Fire Extinguishers and Fixed Fire Extinguishing Systems	4/22/09	LLR - Office of State Fire Marshal
3218		SR33-5	Liquefied Petroleum (LP) Gas	4/22/09	LLR - Office of State Fire Marshal
3219		SR33-5	Fireworks and Pyrotechnics	4/22/09	LLR - Office of State Fire Marshal
3220		SR33-5	Fire Prevention and Life Safety in Local Detention Facilities	4/22/09	LLR - Office of State Fire Marshal
3213		SR33-5	Annual Audited Financial Reporting Regulation	4/30/09	Department of Insurance
3208		SR33-6	Contact Information from Traffic Stops	5/13/09	Department of Public Safety
3205		SR33-6	Tax Credits for Fortification Measures	5/13/09	Department of Insurance
3197		SR33-6	Annual Reporting Requirements for Designated Eligible Telecommunications Carriers	5/13/09	Public Service Commission
3203		SR33-6	Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds	5/13/09	Public Service Commission
3210		SR33-6	Licensing of Onsite Wastewater System Master Contractor	5/13/09	Department of Health and Envir Control
4004		SR33-6	Federal Government Construction Contracts	5/13/09	Department of Revenue
3225		SR33-6	Hazardous Waste Management	5/13/09	Department of Health and Envir Control
4005		SR33-6	Deed Recording Fee	5/13/09	Department of Revenue
3223		SR33-6	Adjustment of Bills and Representation	5/13/09	Public Service Commission
3226		SR33-6	X-rays (Title B)	5/13/09	Department of Health and Envir Control
4036		SR33-6	Replacement of Life Insurance and Annuities	5/13/09	Department of Insurance
4035	R20	SR33-4	Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values	5/13/09	Department of Insurance
4028		SR33-6	Charter School Appeals	5/13/09	State Board of Education
4029		SR33-6	Assessment Program	5/13/09	State Board of Education
4027		SR33-6	Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)	5/13/09	State Board of Education
4026		SR33-6	Procedures and Standards for Review of Charter School Applications	5/15/09	State Board of Education
4019		SR33-6	Occupational Safety and Health Act	5/16/09	LLR-Occupational Safety and Health
4041		SR33-6	Pilot and Apprentice Age Limitations; Short Branch Qualifications; Pilot Functions and Responsibilities; and Penalties	5/16/09	LLR-Commissioners of Pilotage
4018		SR33-6	Board of Registration for Professional Engineers and Surveyors	5/16/09	LLR- Bd of Registration for Professional Engineers and Surveyors
3222		SR33-6	Interruption of Service, Computation of Time, and Service Between Parties of Record	5/18/09	Public Service Commission
4039		SR33-6	Designation of Asian Citrus psyllid as Plant Pest and Quarantine	5/20/09	Clemson University-State Crop Pest Comm.
4001		SR33-6	Plum Pox Virus Quarantine	5/20/09	Clemson University-State Crop Pest Comm.
4013		SR33-6	Standards for Licensing Nursing Homes	5/20/09	Department of Health and Envir Control
4040		SR33-6	Consumer Credit Counseling Requirements	5/21/09	Department of Consumer Affairs
4031		SR33-6	LIFE Scholarship & LIFE Scholarship Enhancement	5/22/09	Commission on Higher Education
4032		SR33-6	Need-based Grants Program	5/22/09	Commission on Higher Education
4033		SR33-6	Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement	5/22/09	Commission on Higher Education
4034		SR33-6	Determination of Rates of Tuition and Fees	5/22/09	Commission on Higher Education
4030		SR33-6	Public Swimming Pools	5/22/09	Department of Health and Envir Control
4020		SR33-6	PC&N (Stretchers Vans)	5/24/09	Public Service Commission
4017		SR33-6	Milk and Milk Products	5/27/09	Department of Health and Envir Control
3198		SR33-6	Solid Waste Management: Demonstration-of-Need	5/27/09	Department of Health and Envir Control
3221		SR33-6	Statewide Criminal Gang Database	6/03/09	State Law Enforcement Division

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Sine Die Revision 6/16/09

4042	SR33-6	Seasons, Bag Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	1/16/10	6/09/09	Department of Natural Resources
4043		Amend and Add Regulations to Chapter 67 to Reflect Changes in Title 42 Necessitated by the Approval of Act 111 on June 25, 2007	1/25/10	1/13/10	Workers' Compensation Commission
4049	R73	SR33-6 Use and Dissemination of Test Results	1/25/10		State Board of Education
4053	R27	SR33-5 Enforcement of Pilot Statutes and Maritime Homeland Security	2/09/10		Commissioners of Pilotage
4052	R28	SR33-5 Light Brown Apple Moth Quarantine	2/17/10		Clemson University-State Crop Pest Comm.
4054		Registration of Immigration Assistance Services	3/06/10	2/22/10	LLR
4055		Illegal Aliens and Private Employment	3/06/10	2/22/10	LLR
4058		Insurance Holding Company Systems	3/20/10	3/08/10	Department of Insurance
4059		South Carolina Reinsurance Facility Recoupment	3/20/10	3/08/10	Department of Insurance
4060		Life Insurance Disclosure	3/20/10	3/08/10	Department of Insurance
4061		Valuation of Investments	3/20/10	3/08/10	Department of Insurance
4062	R81	SR33-6 Phytophthora ramorum Quarantine	3/21/10		Clemson University-State Crop Pest Comm.
4068		Funeral Service Practice Act	4/11/10	3/30/10	Board of Funeral Service
4066		Long Term Care Insurance	5/03/10	4/21/10	Department of Insurance
4067		Law Enforcement Officer and E-911 Officer Training & Certification	5/10/10	4/28/10	S.C. Criminal Justice Academy
4072		Central Fill Pharmacies	5/04/10		Board of Pharmacy
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4015		Environmental Protection Fees	Tolled		Department of Health and Envir Control
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3166		SCDOT Chief Internal Auditor			Department of Transportation
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4016		Environmental Health Inspections and Fees			Department of Health and Envir Control

COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 3

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: <http://www.scstatehouse.gov/regnsrch.htm>

DOC. No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
3184	Restructuring ATF Regulations - Pyrotechnic Safety	Labor, Commerce and Industry	Labor, Commerce and Industry
3202	Requirements for Licensure as a Physical Therapist	Medical, Military, Pub & Mun Affairs	Medical Affairs
3201	Mobile Dental Facilities and Portable Dental Operations	Medical, Military, Pub & Mun Affairs	Medical Affairs
3196	S.C. National Guard College Assistance Program	Education and Public Works	Education
3207	Board of Veterinary Medical Examiners Chapter Revision	Agriculture and Natural Resources	Labor, Commerce and Industry
3204	Licensing Standards for Continuing Care Retirement Communities	Medical, Military, Pub & Mun Affairs	Medical Affairs
3199	South Carolina Trauma Care Systems	Medical, Military, Pub & Mun Affairs	Medical Affairs
3206	Application, Renewal and Continuing Education	Medical, Military, Pub & Mun Affairs	Medical Affairs
3209	Operation of Public Pupil Transportation Services	Education and Public Works	Education
3214	Fire Prevention and Life Safety	Labor, Commerce and Industry	Labor, Commerce and Industry
3215	Fire Prevention and Life Safety for Special Occupancies	Labor, Commerce and Industry	Labor, Commerce and Industry
3216	Explosives	Labor, Commerce and Industry	Labor, Commerce and Industry
3217	Portable Fire Extinguishers and Fixed Fire Extinguishing Systems	Labor, Commerce and Industry	Labor, Commerce and Industry
3218	Liquefied Petroleum (LP) Gas	Labor, Commerce and Industry	Labor, Commerce and Industry
3219	Fireworks and Pyrotechnics	Labor, Commerce and Industry	Labor, Commerce and Industry
3220	Fire Prevention and Life Safety in Local Detention Facilities	Labor, Commerce and Industry	Labor, Commerce and Industry
3213	Annual Audited Financial Reporting Regulation	Labor, Commerce and Industry	Banking and Insurance
3208	Contact Information from Traffic Stops	Education and Public Works	Transportation
3205	Tax Credits for Fortification Measures	Ways and Means	Banking and Insurance
3197	Annual Reporting Requirements for Designated Eligible Telecommunications Carriers	Labor, Commerce and Industry	Judiciary
3203	Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds	Labor, Commerce and Industry	Judiciary
3210	Licensing of Onsite Wastewater System Master Contractors	Agriculture and Natural Resources	Medical Affairs
4004	Federal Government Construction Contracts	Ways and Means	Finance
3225	Hazardous Waste Management	Agriculture and Natural Resources	Medical Affairs
4005	Deed Recording Fee	Judiciary	Finance
3223	Adjustment of Bills and Representation	Labor, Commerce and Industry	Judiciary
3226	X-rays (Title B)	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4036	Replacement of Life Insurance and Annuities	Labor, Commerce and Industry	Banking and Insurance
4035	Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values	Labor, Commerce and Industry	Banking and Insurance
4028	Charter School Appeals	Education and Public Works	Education
4029	Assessment Program	Education and Public Works	Education
4027	Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)	Education and Public Works	Education
4026	Procedures and Standards for Review of Charter School Applications	Education and Public Works	Education
4019	Occupational Safety and Health Act	Labor, Commerce and Industry	Medical Affairs
4041	Pilot and Apprentice Age Limitations; Short Branch Qualifications; Pilot Functions and Responsibilities; and Penalties	Labor, Commerce and Industry	Transportation
4018	Board of Registration for Professional Engineers and Surveyors	Labor, Commerce and Industry	Labor, Commerce and Industry
3222	Interruption of Service, Computation of Time, and Service Between Parties of Record	Labor, Commerce and Industry	Judiciary
4039	Designation of Asian Citrus psyllid as Plant Pest and Quarantine	Agriculture and Natural Resources	Agriculture and Natural Resources
4001	Plum Pox Virus Quarantine	Agriculture and Natural Resources	Agriculture and Natural Resources
4013	Standards for Licensing Nursing Homes	Medical, Military, Pub & Mun Affairs	Medical Affairs
4040	Consumer Credit Counseling Requirements	Labor, Commerce and Industry	Banking and Insurance
4031	LIFE Scholarship & LIFE Scholarship Enhancement	Ways and Means	Education
4032	Need-based Grants Program	Ways and Means	Education
4033	Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement	Ways and Means	Education
4034	Determination of Rates of Tuition and Fees	Ways and Means	Education
4030	Public Swimming Pools	Agriculture and Natural Resources	Medical Affairs
4020	PC&N (Stretcher Vans)	Labor, Commerce and Industry	Judiciary
4017	Milk and Milk Products	Agriculture and Natural Resources	Medical Affairs
3198	Solid Waste Management: Demonstration-of-Need	Agriculture and Natural Resources	Medical Affairs
3221	Statewide Criminal Gang Database	Judiciary	Judiciary
4042	Seasons, Bag Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	Agriculture and Natural Resources	Fish, Game and Forestry
4043	Amend and Add Regulations to Chapter 67 to Reflect Changes in Title 42 Necessitated by the Approval of Act 111 on June 25, 2007	Labor, Commerce and Industry	Judiciary
4049	Use and Dissemination of Test Results	Education and Public Works	Education
4053	Enforcement of Pilot Statutes and Maritime Homeland Security	Judiciary	Transportation
4052	Light Brown Apple Moth Quarantine	Agriculture and Natural Resources	Agriculture and Natural Resources
4054	Registration of Immigration Assistance Services	Labor, Commerce and Industry	Labor, Commerce and Industry

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4055	Illegal Aliens and Private Employment	Judiciary	Labor, Commerce and Industry
4058	Insurance Holding Company Systems	Labor, Commerce and Industry	Banking and Insurance
4059	South Carolina Reinsurance Facility Recoupment	Labor, Commerce and Industry	Banking and Insurance
4060	Life Insurance Disclosure	Labor, Commerce and Industry	Banking and Insurance
4061	Valuation of Investments	Labor, Commerce and Industry	Banking and Insurance
4062	Phytophthora ramorum Quarantine	Agriculture and Natural Resources	Agriculture and Natural Resources
4068	Funeral Service Practice Act	Labor, Commerce and Industry	Judiciary
4066	Long Term Care Insurance	Labor, Commerce and Industry	
4067	Law Enforcement Officer and E-911 Officer Training & Certification	Judiciary	
4072	Central Fill Pharmacies	Medical, Military, Pub & Mun Affairs	

Committee Requested Withdrawal

4022	Riverbanks Parks Commission	Agriculture and Natural Resources	Fish, Game and Forestry
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Resolution Introduced to Disapprove

4014	Environmental Protection Fees	Agriculture and Natural Resources	Medical Affairs
4015	Environmental Protection Fees	Agriculture and Natural Resources	Medical Affairs

Permanently Withdrawn

3166	SCDOT Chief Internal Auditor	Education and Public Works	Transportation
4003	Donors and Goods Given Away for Advertising Purposes	Ways and Means	Finance
4016	Environmental Health Inspections and Fees	Agriculture and Natural Resources	Medical Affairs

Executive Order No. 2009-06

WHEREAS, the Grand Jurors of Horry County indicted Lewis Christopher Shannon, member of the Horry County School Board, on May 28, 2009, for Breach of Trust with Fraudulent Intent over \$5,000.00; and

WHEREAS, South Carolina law recognizes that “an act in which fraud is an ingredient involves moral turpitude...,” see *State v. Horton*, 248 S.E.2d 263 (1978); *In re Derrick*, 392 S.E.2d 180 (1990), and the above-referenced indictment is for a crime that involves moral turpitude; and

WHEREAS, Lewis Christopher Shannon is an officer of a political subdivision of the State and Article VI, Section 8, of the South Carolina Constitution provides 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...may be suspended by the Governor until he shall have been acquitted;” and

WHEREAS, a certified true copy of the indictment against Lewis Christopher Shannon has been provided to me.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby suspend Lewis Christopher Shannon from the office of School Board of Horry County 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 Lewis Christopher Shannon 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 2nd DAY OF JUNE, 2009.**

MARK SANFORD
Governor

Executive Order No. 2009-07

WHEREAS, on May 16, 2009, the Municipal Election Commission for the Town of McColl (“Commission”) submitted to the Governor’s Office a Report on Election Protest declaring that illegal ballots were cast in the May 12, 2009, election for Mayor of the Town of McColl rendering doubtful the result of the election; and

WHEREAS, the Commission has ruled that a new election for mayor must be held and, because no appeal was filed to protest the ruling, the Commission’s decision is final; 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

6 EXECUTIVE ORDERS

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 election be held for the office of Mayor of the Town of McColl on September 8, 2009, or at the earliest possible date and time after September 8, 2009, as is permitted by the United States Department of Justice; and (b) designate the McColl Election Commission to perform the necessary official duties pertaining to the election to declare the result.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 10th DAY OF JUNE, 2009.**

**MARK SANFORD
Governor**

Executive Order No. 2009-08

WHEREAS, Section 1110 of the Social Security Act, and Title VIII of the American Recovery and Reinvestment Act (ARRA) of 2009 include funding opportunities for the Strengthening Communities Fund (SCF); and

WHEREAS, the federal government will award funds to state, city, county, and Native American/Tribal government offices or their designees to build their own capacity as well as the capacity of nonprofit faith-based and community organizations; and

WHEREAS, program grantees will use the SCF to:

- 1) conduct outreach and education aimed at increasing the involvement of nonprofit organizations in the economic recovery;
- 2) provide training and technical assistance aimed at building the capacity of nonprofit organizations to address the broad economic recovery issues present in their communities;
- 3) build the capacity of their state, local or Native American/Tribal government offices or designees to better involve nonprofit organizations in the economic recovery; and

WHEREAS, the State may designate an Authorized Entity that will be responsible for 1) conducting programmatic and financial oversight of the SCF state, local, and tribal government capacity building program grant award; 2) implementing the approved work plan; 3) participating in national evaluation studies; and 4) sending two key staff persons to an annual grantee conference in Washington, D.C.; and

WHEREAS, the South Carolina Association of NonProfit Organizations (SCANPO) is a 501(c)(3) entity, organized with the South Carolina Secretary of State's Office, whose purpose is to bring together charitable organizations to strengthen the effectiveness of South Carolina's nonprofit sector; and

NOW, THEREFORE, I hereby designate the South Carolina Association of NonProfit Organizations (SCANPO) as the sole South Carolina applicant for the Strengthening Communities Fund grant (State, Local, and Tribal Government Capacity Building Program).

FURTHER, SCANPO will work with other charitable organizations in South Carolina, including the United Way, in the administration of any Strengthening Communities Funds received.

FURTHER, SCANPO agrees to meet all of the requirements pertaining to the receipt and administration of Strengthening Communities Funds outlined by the United States Department of Health and Human Services.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 29th DAY OF JUNE 2009.**

MARK SANFORD
Governor

Executive Order No. 2009-09

WHEREAS, the Congress and President of the United States enacted the American Recovery and Reinvestment Act of 2009 (“the Act”), which provides for the expenditure of \$500 billion in federal funds for infrastructure investment, health care and welfare programs, and other public works; and

WHEREAS, the Act entitles the State of South Carolina to \$2.8 billion in federal funds for various public projects and programs; and

WHEREAS, the Act directs much of the stimulus funds programmatically to state and local governmental entities without requiring the approval or oversight of either the Governor or the General Assembly; and

WHEREAS, the expenditure of massive amounts of stimulus funds without oversight creates the possibility of government waste and fraud; and

WHEREAS, a coordinated effort to oversee and account for the expenditure of stimulus funds is fundamental to ensuring that taxpayer money is spent with efficiency and integrity; and

WHEREAS, pursuant to S.C. Code Ann. § 1-3-10, public officers have a duty to “immediately furnish to the Governor, in such form as he may require, any information desired by him in relation to their respective affairs or activities,” a directive that is consistent with the constitutional authority found in Article IV, Section 17, of the South Carolina Constitution, which provides that “[a]ll state officers, agencies, and institutions within the Executive Branch shall, when required by the Governor, give him information in writing upon any subject relating to the duties and functions of their respective offices;” and

WHEREAS, Proviso 89.118 of the State Appropriations Act for Fiscal Year 2009-2010 establishes a committee chaired by the State Treasurer and Comptroller General for monitoring funds associated with the Act and authorizes such committee to collect from state agencies and local governments information relating to the expenditure of funds and other related data required to be reported under the Act.

8 EXECUTIVE ORDERS

NOW, THEREFORE, I hereby establish the South Carolina Stimulus Oversight, Accountability, and Coordination Task Force ("Task Force"). The Task Force shall coordinate efforts among state and local governmental entities to maintain transparency, accountability, efficiency, and consistency with the Act in the spending of stimulus funds. In addition, the Task Force shall consult with the Senate Finance Committee and the House Ways and Means Committee to prevent annualizations and ensure that stimulus funds are not used to fund existing obligations or programs that are currently funded in the State Appropriations Act. The Task Force shall be comprised of the following officials or their designee:

- (1) South Carolina Comptroller General and South Carolina Treasurer shall serve as Co-Chairs of the Task Force and be responsible for overseeing the duties and responsibilities of the Task Force.
- (2) Comptroller General shall have primary responsibility for accounting of stimulus related expenditures and for providing transparency in the spending of stimulus funds by establishing and maintaining a website tracking stimulus related expenditures. The South Carolina Treasurer shall have primary responsibility for overseeing the auditing of stimulus related expenditures and for ensuring that the reporting requirements of the Act are followed by state agencies and local governments. Each Co-Chair shall arrange for the necessary staffing to carry out their primary responsibilities and coordinate any staffing requirements for overlapping or additional requirements that may arise.
- (3) South Carolina State Auditor, who shall exercise all powers provided pursuant to Title 11, Chapter 7, of the South Carolina Code of Laws to ensure that the accounting of all stimulus funds complies with state and federal law and other applicable government accounting standards and who shall assist the Treasurer and Comptroller General in their roles as Co-Chairs of the Task Force; provided, however, that the State Auditor shall not perform any task which would jeopardize his independence as required by S.C. Code Ann. § 11-7-45;
- (4) South Carolina Superintendent of Education;
- (5) Secretary of the South Carolina Department of Transportation;
- (6) Director of the South Carolina Department of Health and Human Services;
- (7) Director of the Department of Social Services;
- (8) Secretary of the South Carolina Department of Commerce;
- (9) Chief of the State Law Enforcement Division;
- (10) Director of the Department of Public Safety
- (11) Director of the Department of Natural Resources;
- (12) Commissioner of the Department of Health and Environmental Control;
- (13) Director of the Office of Economic Opportunity;
- (14) Executive Director of the Budget and Control Board;
- (15) Director of the South Carolina Energy Office;
- (16) Executive Director of the South Carolina State Housing Finance and Development Authority;
- (17) Director of the Budget and Control Board's Office of State Budget; and
- (18) Other public officials receiving or applying for stimulus funds, as hereafter appointed by the Governor.

FURTHER, pursuant to Article IV, Section 17, of the South Carolina Constitution, S.C. Code Ann. § 1-3-10, and Proviso 89.118 of the State Appropriations Act, I hereby order that all State and local governmental entities that apply for, receive, or otherwise administer programs receiving funds from the Act provide the Task Force with such documents as it deems necessary to ensure that stimulus funds are expended, awarded, or otherwise distributed prudently, ethically, efficiently, and consistent with state and federal law.

FURTHER, I declare that Executive Order 2009-03 is rescinded and from this date declared null and void.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 29th DAY OF JUNE, 2009.**

**MARK SANFORD
Governor**

10 NOTICES

STATE BUDGET AND CONTROL BOARD OFFICE OF HUMAN RESOURCES

NOTICE

Act 29 of 2009 authorizes the State Budget and Control Board, Office of Human Resources to amend human resource regulations as it determines efficient to implement and transition to the South Carolina Enterprise Informational System. Further, Act 29 provides that any such changes must be published in the State Register. Accordingly, the State Budget and Control Board, Office of Human Resources has submitted for publication the following amendments to Chapter 19, South Carolina Code of Regulations.

2009 Amendments to the State Human Resources Regulations

19-700 DEFINITIONS

CONTINUOUS STATE SERVICE – service with one or more State agencies without a break in service.

CONTINUOUS STATE SERVICE DATE – the date that reflects the first date of State employment without a break in service.

DUAL EMPLOYMENT - an agreement by which an employee within an FTE position with an employing agency accepts temporary, part-time employment with the same or another agency.

LEAVE ACCRUAL DATE – the date used to calculate an employee's rate of annual leave earnings, which includes: (1) all State service in an FTE position, including part-time service, adjusted to reflect periods where there was a break in service; and, (2) all service as a certified employee in a permanent position of a school district of this State.

PAY SCHEDULE (Deleted)

REDUCTION IN FORCE - the procedure used by an agency to eliminate or reduce a portion of one or more filled FTE positions in one or more organizational units within the agency due to budgetary limitations, shortage of work, organizational changes or outsourcing/privatization.

19-701 GENERAL RULES

19-701.02 CONSTRUCTION OF WORDS

All words in these Regulations referencing the masculine gender shall apply to females as well. All words in these Regulations referencing "written," "in writing," or similar language shall also apply to electronic documents.

19-701.05 CENTRAL HUMAN RESOURCES DATA SYSTEM

As required by § 8-11-230 of the South Carolina Code of Laws, OHR provides a central database to maintain human resources data on all employees. To maintain the integrity and completeness of the system, all agencies are required to submit appropriate information in a timely manner.

19-702 CLASSIFICATION PLAN

19-702.04 A. POSITION DESCRIPTIONS

The Office of Human Resources shall develop a position description to be used by agencies in describing assigned duties and other information necessary to determine the proper classification of each position. An agency may develop a position description which must be approved by OHR prior to implementation.

19-703 JOB VACANCY ANNOUNCEMENTS**19-703.02 A. REPORT OF JOB VACANCIES**

In addition to any other requirement provided by law, when a job vacancy occurs in any state office, agency, department, or other division of the executive branch of state government, the appointing authority must post a notice with the Office of Human Resources of the State Budget and Control Board and the South Carolina Employment Security Commission at least five working days before employing a person to fill the vacancy. The posting must give notice of the job vacancy, describe the duties to be performed by a person, employed in that position and include any other information required by law.

19-703.02 B. REPORT OF JOB VACANCIES

The notification of a vacancy must include the following data: (Only introductory text revised)

19-703.02 B. 6. REPORT OF JOB VACANCIES

The class code and the position number of the vacant position;

19-703.02 C. REPORT OF JOB VACANCIES (Deleted)**19-703.03 INTERNAL POSTING AND DISTRIBUTION OF ANNOUNCEMENTS**

The agency must notify employees where the vacancy exists. If the vacancy is a promotional opportunity that requires work experience within the agency to qualify for the promotion, notice of the vacancy must be posted for five workdays, and the notice does not have to be sent to the South Carolina Employment Security Commission or to the Office of Human Resources.

19-703.04 FREEDOM OF INFORMATION ACT REQUESTS

A public body may, but is not required to, exempt from disclosure all materials, regardless of form, gathered by the public body during a search to fill an employment position, except that materials relating to the final pool of applicants under consideration comprised of at least three people for a position must be made available for public inspection and copying. In addition to making available for public inspection and copying the materials described in this item, the public body must disclose, upon request, the number of applicants considered for a position. For the purpose of this item, materials relating to the final pool of applicants comprised of at least three people, do not include an applicant's income tax returns, medical records, social security number, or information otherwise exempt from disclosure by § 30-4-40 of the South Carolina Code of Laws.

19-705 CLASSIFIED EMPLOYEE PAY PLAN**19-705.01 B. STATEMENTS OF POLICY**

The Office of Human Resources (OHR) shall establish and maintain a Pay Plan to consist of (1) the official classification listing, (2) the official pay band, and (3) the Regulations and procedures governing the administration of the Pay Plan.

19-705.02 B. ADMINISTRATION OF THE PAY PLAN

An employee shall be paid within the pay bands in accordance with the provisions of this Regulation.

19-705.05 B. 3. b. SALARY DECREASES (Only introductory text revised)

Involuntary Reason - An employee who is involuntarily assigned lower level responsibilities or moved to a position in his current pay band with lower level responsibilities than his current position, shall not have his salary reduced for a period of one year from the date of the action unless an exception is approved by the Budget and Control Board or his designee. After the expiration of the one-year period, with the approval of the agency head, the employee's salary may be reduced no more than 15% or to the midpoint of the pay band, whichever is lower. If the employee's salary is allowed to remain above the maximum of the pay band, the employee shall not be eligible for pay increases unless:

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19-705.07 B. COMPENSATION NOT INCLUDED IN BASE SALARY

Shift Differential Pay - The Office of Human Resources may approve the additional payment of a shift differential for classifications of employees in the entire agency or any portion of the agency assigned to an evening, night, weekend, rotating, or split shift, provided that the majority of hours assigned during the shift are other than 8:00 a.m. to 5:00 p.m., Monday through Friday. The employee's pay shall be adjusted by the amount approved, even if such amount increases the employee's salary above the maximum of the pay band for the class.

19-705.07 C. COMPENSATION NOT INCLUDED IN BASE SALARY

On-Call Pay - On-call pay is pay by the employing agency for classifications of employees in the entire agency or any portion of the agency to remain available to return to work within a specified period of time. The Office of Human Resources must approve on-call pay for employees.

19-705.07 E. COMPENSATION NOT INCLUDED IN BASE SALARY

Special Assignment Pay - The Office of Human Resources may approve additional compensation to classifications of employees in the entire agency or any portion of the agency for periods of time when he is on special assignment if circumstances warrant such approval based on guidelines established by OHR.

19-705.07 F. COMPENSATION NOT INCLUDED IN BASE SALARY

Market or Geographic Differential Pay - The Office of Human Resources may approve Market or Geographic Differential Pay for classifications of employees in the entire agency or any portion of the agency for periods of time when circumstances warrant such approval.

19-705.07 I. COMPENSATION NOT INCLUDED IN BASE SALARY (Added)

I. Grant Salary Adjustment - The Office of Human Resources is authorized to approve a grant salary adjustment for an employee in a full-time equivalent (FTE) position if circumstances warrant such approval. The grant salary adjustment must be removed when the circumstances that warranted such an increase are no longer present.

19-706 ESTABLISHMENT OF UNCLASSIFIED POSITIONS AND THE UNCLASSIFIED EMPLOYEE PAY PLAN

19-706.04 C. 2. c. (3) HIRING SALARIES, SALARY INCREASES, AND SALARY DECREASES FOR EMPLOYEES IN UNCLASSIFIED POSITIONS

The retention of an employee who has a bona fide job offer from an employer, either within or outside of State government. For an increase of more than 15%, the employee must have a bona fide job offer outside of State government and the request must be submitted to OHR for approval. An employee shall receive no more than one retention increase in a one-year period;

19-706.04 D. 1. HIRING SALARIES, SALARY INCREASES, AND SALARY DECREASES FOR EMPLOYEES IN UNCLASSIFIED POSITIONS

Agency heads not covered by the Agency Head Salary Commission shall have their salary established in accordance with relevant legislation.

19-706.04 D. 3. b. (3) (c) HIRING SALARIES, SALARY INCREASES, AND SALARY DECREASES FOR EMPLOYEES IN UNCLASSIFIED POSITIONS

The retention of an employee who has a bona fide job offer from an employer, either within or outside of State government. For an increase of more than 15%, the employee must have a bona fide job offer outside of State government and the request must be submitted to OHR for approval. An employee shall receive no more than one retention increase in a one-year period;

19-706.05 C. COMPENSATION NOT INCLUDED IN BASE SALARY (Added)

C. Grant Salary Adjustment – The Office of Human Resources is authorized to approve a grant salary adjustment for an employee in a full-time equivalent (FTE) position if circumstances warrant such approval. The grant salary adjustment must be removed when the circumstances that warranted such an increase are no longer present.

19-707 HOURS OF WORK AND OVERTIME**19-707.01 D. HOURS OF WORK (Deleted)****19-707.01 E HOURS OF WORK (Deleted)****19-707.01 D. HOURS OF WORK**

D. Each agency is required to keep an accurate record of all employee's scheduled hours of work and leave taken. Leave shall be recorded in the appropriate categories and shown as either leave with or without pay. The agency head has the ultimate responsibility for the accuracy and proper maintenance of hours of work and leave records.

19-707.02 E. OVERTIME-COMPENSATORY TIME

Workweek is seven consecutive 24-hour periods, i.e., 168 consecutive hours designated by the employing agency.

19-707.02 J. 3. b-p. OVERTIME-COMPENSATORY TIME (b. Deleted, remaining items relettered as b. – o.)

- b. Home address;
- c. Date of birth if under 19 years of age;
- d. Gender and occupation;
- e. Employee workweek, including time of day and day of week on which the employee's workweek begins;
- f. Regular hourly rate of pay for any week when overtime is worked and overtime pay is due;
- g. Hours worked each workday and total hours worked each week;
- h. Total daily or weekly straight-time wages for all hours worked;
- i. Total overtime excess compensation for the workweek;
- j. Total additions or deductions from wages each pay period;
- k. Total wages paid each pay period;
- l. Date of payment and pay period covered;
- m. The number of hours of compensatory time earned each workweek, or other applicable work period, by each employee at the rate of 1 1/2 hours for each overtime hour worked;
- n. The number of hours of such compensatory time used each workweek or other applicable work period by each employee; and

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- o. The number of hours of compensatory time compensated in cash, the total amount paid, and the date of such payment.

19-708 HOLIDAYS

19-708.02 LEGAL HOLIDAYS

State Holidays

New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday in January
George Washington's Birthday/President's Day	Third Monday in February
Confederate Memorial Day	May 10
National Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Friday Following Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25
Day after Christmas	December 26

19-708.02 B. HOLIDAYS DECLARED BY GOVERNOR (Deleted)

19-708.03 B. HOLIDAY OBSERVANCE PROCEDURE

When a holiday falls on a Saturday or Sunday, it shall be observed on the preceding Friday or the following Monday, respectively, by employees working a Monday through Friday schedule. Employees shall observe the holiday on the designated day or receive holiday compensatory time.

19-708.03 F. HOLIDAY OBSERVANCE PROCEDURE

Employees who are on leave without pay the day before a holiday shall not be paid or receive holiday compensatory time for holidays falling during this period of leave without pay.

19-708.04 A. HOLIDAY COMPENSATORY TIME

An employee, except an employee of an agency following an academic schedule, who is required by the agency to work on a holiday shall be given holiday compensatory time at the convenience of the agency within 90 days of such holiday.

19-708.04 B. HOLIDAY COMPENSATORY TIME

An employee of an agency which follows an academic schedule who is required by the agency to work on a holiday shall be given holiday compensatory time at the convenience of the agency within one year from the date of the holiday.

19-708.04 D. HOLIDAY COMPENSATORY TIME

All nonexempt employees who are not allowed to take holiday compensatory time earned for working on a holiday within the 90-day period, or the one-year period in the case of employees who follow academic schedules, shall be compensated for the holiday by the employing agency at the straight hourly pay rate of the employee. Exempt employees shall not be paid for unused holiday compensatory time. An agency head or designee may extend the 90-day period for an additional 90 days because of limited staffing.

19-709 ANNUAL LEAVE**19-709.02 A. 4. a. ANNUAL LEAVE EARNINGS**

All State service in an FTE position, including part-time service, adjusted to reflect periods when there was a break in service;

19-709.03 C. 2. b USING AND SCHEDULING ANNUAL LEAVE

For emergency or extreme hardship conditions as referenced in SC Code of Laws 8-11-670, the agency head or designee may allow an employee, who has used all accumulated sick leave and thirty days of annual leave any remaining annual leave which he has accumulated.

19-709.03 C. 2. c. USING AND SCHEDULING ANNUAL LEAVE (Added)

c. An employee may request review by the State Human Resources Director the denial of the use of annual leave as provided in this Section.

19-709.04 C. TRANSFER FROM ONE STATE AGENCY TO ANOTHER

When an employee transfers from a position in which he earns both sick and annual leave to a teaching position of academic rank at a State supported institution of higher learning, the employee shall be paid for earned annual leave according to Section 19-709.05.

19-709.05 PAYMENT UPON SEPARATION FROM EMPLOYMENT

Upon separation from State employment, a lump sum payment will be made for unused annual leave, not to exceed 45 days, unless a higher maximum is authorized under Section 19-709.02 C., and without deducting any earned leave taken during the calendar year in which the employee separates. Upon the death of an employee while in active service, the estate of the deceased employee shall be entitled to the lump sum payment not to exceed 45 days except as included in SC Code of Laws 8-11-610.

19-709.06 B. RECORDS

Annual leave records shall be reviewed by or reported to the employee no less than once per calendar year and be supported by the individual leave requests.

19-710 SICK LEAVE**19-710.03 B. ADDITIONAL SICK LEAVE MAY BE GRANTED**

The agency may advance this leave only upon documentation from a health care provider that the employee is expected to return to work within that period of time.

19-710.03 D. ADDITIONAL SICK LEAVE MAY BE GRANTED (Added)

D. If an employee separates from employment before satisfying the leave deficit and returns to state employment, the leave deficit will need to be satisfied upon reemployment.

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19-710.07 B. RECORDS

Annual leave records shall be reviewed by or reported to the employee no less than once per calendar year and be supported by the individual leave requests.

19-712 OTHER LEAVE PROGRAMS

19-712.01 I 1. OTHER LEAVE TYPES

For any extended period of certified disability due to illness, injury, or maternity, an employee may request leave not to exceed 180 calendar days.

19-712.01 I 6. b. OTHER LEAVE TYPES

The agency head may extend the disability leave beyond the 365 days without a break in service provided the health care practitioner certifies the employee's return to work within the time frame of the requested extension.

19-712.01 J. OTHER LEAVE TYPES

For more detailed information, consult the Family and Medical Leave Act (FMLA) and relevant federal regulations. State government is considered a single employer for the purpose of determining FMLA leave.

19-712.01 J.1.a. OTHER LEAVE TYPES

Family Medical Leave Act leave shall be granted to any employee who has worked for the State at least 12 months and who has worked at least 1,250 hours (defined as FLSA compensable hours of work) during the 12-month period prior to the request for FMLA leave, including "on-call" hours. The required total of 12 months of employment need not be consecutive. An agency can go back 7 years prior to the date of the need for leave to determine if the employee worked a total of 12 months with state government. An agency has the ability to go beyond 7 years if an employee left state employment due to National Guard or Reserve Military obligations or a written agreement reflecting an employer's intention to rehire after a break.

19-712.01 J.1.a.(1) OTHER LEAVE TYPES

In order to determine if an exempt employee meets the 1,250 hours of service, work records may be kept.

19-712.01 J. 1. a. (2) OTHER LEAVE TYPES (Deleted)

19-712.01 J.1.b.(5) OTHER LEAVE TYPES (Added)

(5) For qualifying exigencies arising out of the of the fact that the employee's spouse, son, daughter, or parent is on active duty or called to active duty status as a member for the National Guard or Reserves in support of a contingency operation. Qualifying exigencies can include: 1) short notice deployment; 2) military events and related activities; 3) childcare and school activities; 4) financial and legal arrangements; 5) counseling; 6) rest and recuperation; 7) post- deployment activities; and 8) additional activities not encompassed in other categories but agreed by the agency and the employee.

19-712.01 J.1.b. OTHER LEAVE TYPES

Note: Reasons (1) and (2) for leave expire 12 months after the date of the birth or placement.

19-712.01 J.1.c. OTHER LEAVE TYPES (Added)

Under the military caregiver leave provisions, an eligible employee who is a spouse, son, daughter, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness may be able to take up to a total of 26 workweeks in a single 12-month period to care for the service member.

19-712.01 J. 2. OTHER LEAVE TYPES

An eligible employee requesting FMLA leave must give 30 days advance notice to the employing agency of the need to take FMLA leave when the need for leave is foreseeable. When the need for leave is not foreseeable, such notice must be given as soon as practical. The use of FMLA leave shall be subject to

verification. The agency may require documentation or certification from a health care provider supporting the need for FMLA leave for a serious health condition. Agencies may also require documentation for certification of serious health condition of a spouse, son, or daughter, a qualifying exigency or to confirm familial relationships.

19-712.01 K. 3. OTHER LEAVE TYPES

During a Declaration of Emergency, all essential and direct care services will be maintained. Each agency shall identify and notify essential employees by position, classification, or internal title. All other employees will not be expected to report to work.

19-712.01 K. 4. OTHER LEAVE TYPES

Notification of Declaration of Emergency - Upon the communication of the Declaration of Emergency from the Governor's Office to the South Carolina Emergency Management Division, the South Carolina Emergency Management Division will communicate the Declaration of Emergency to each agency.

19-712.01 L. OTHER LEAVE TYPES

L. Military Leave (Cross reference FMLA. Refer to Section 19-712.01 J. on qualifying exigencies.) (Only regulation subsection title revised)

19-712.01 L. 1. OTHER LEAVE TYPES

Short Term Military Training

All officers and employees of this State or a political subdivision of this State, who are either enlisted or commissioned members of the South Carolina National Guard, the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, or the United States Coast Guard Reserve are entitled to leaves of absence from their respective duties without loss of pay, time, or efficiency rating, for one or more periods not exceeding an aggregate of 15 regularly scheduled average workdays in any one year during which they may be engaged in training or any other duties ordered by the Governor, the Department of Defense, the Department of the Army, the Department of the Air Force, the Department of the Navy, the Department of the Treasury, or any other department or agency of the government of the United States having authority to issue lawful orders requiring military service. Saturdays, Sundays, and State holidays may not be included in the 15-day aggregate unless the particular Saturday, Sunday, or holiday to be included is a regularly scheduled workday for the officer or employee involved. In the event any such person is called upon to serve during an emergency, he is entitled to such leave of absence for a period not exceeding 30 additional days. Any one year means either a calendar year or, in the case of members required to perform active duty for training or other duties within or on a fiscal year basis, the fiscal year of the National Guard or reserve component issuing the orders.

A state employee in a full time position who serves on active duty in a combat zone and who has exhausted all available leave for military purposes is entitled to receive up to thirty additional work days of military leave in any one year.

19-712.01 Q. OTHER LEAVE TYPES

All officers and employees of this State who wish to be an organ donor and who accrue annual or sick leave as part of their employment are entitled to leaves of absence from their respective duties without loss of pay, time, leave, or efficiency rating for one or more periods not exceeding an aggregate of 30 regularly scheduled workdays in any one calendar year during which they may engage in the donation of their organs. Saturdays, Sundays, and State holidays may not be included in the 30-day aggregate unless the particular Saturday, Sunday, or holiday to be included is a regularly scheduled workday for the officer or employee involved. The officer or employee must show documentation from the attending physician of the proposed organ donation before leave is approved that confirms that the employee is the donor.

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19-712.01 R. OTHER LEAVE TYPES (Added)

R. Leave of Absence - To grant any leave of absence with or without pay, the agency must approve the leave of absence. An employee who is granted leave of absence with or without pay shall be: 1. An employee of the State while on such leave; and 2. Returned to the same position, or one in a comparable pay band for which the employee is qualified. Any leave of absence must be approved in advance except in case of medical or personal emergencies. These situations must be justified to the agency head or his designee for approval.

19-712.02 B. OTHER LEAVE RECORDS

Leave records shall be reviewed by or reported to the employee no less than once per calendar year and be supported by individual leave requests.

19-715 EMPLOYEE PERFORMANCE EVALUATION SYSTEMS

19-715.01 A. STATEMENTS OF POLICY (Deleted)

19-715.01 A. STATEMENTS OF POLICY

A. The Office of Human Resources (OHR) shall develop an EPMS model policy, to assist an agency in its policy development. The Office of Human Resources must review and approve each agency's EPMS policy.

19-715.01 B. STATEMENTS OF POLICY

B. Each agency shall develop an Employee Performance Management System that functions as an effective management tool within the agency, supports continuous communication between supervisors and employees, and provides a sound process for the evaluation of the performance and productivity of its employees.

19-715.01 C. STATEMENTS OF POLICY

C. Teaching and research faculty, professional librarians, academic administrators, and all other persons holding faculty appointments at post-secondary educational institutions, including any branch campuses, shall not be covered by these Regulations but shall be governed by § 8-17-380 of the South Carolina Code of Laws.

19-715.01 D. STATEMENTS OF POLICY

D. Agency heads and other unclassified positions exempt from the State Employee Grievance Procedure Act are also exempt from the Employee Performance Management System. However, these employees shall be given annual performance evaluations.

19-715.01 E. STATEMENTS OF POLICY

E. The State Human Resources Director shall have the authority to make exceptions to these Regulations.

19-715.02 C. 2. ESTABLISHING AND MAINTAINING PERFORMANCE REVIEW DATES

An employee who is in a trial status and has had the trial period extended shall have the performance review date advanced up to 90 calendar days for the time period such extension is in effect.

19-715.02 E. 1. ESTABLISHING AND MAINTAINING PERFORMANCE REVIEW DATES

An employee on approved leave with or without pay for more than 30 consecutive workdays may have the performance review date advanced up to 90 calendar days after those first 30 workdays.

19-715.02 E. 2. ESTABLISHING AND MAINTAINING PERFORMANCE REVIEW DATES

A covered employee who within 30 calendar days of his performance review date receives a "Warning Notice of Substandard Performance," shall have the performance review date advanced up to 90 calendar days.

19-715.02 E. 4. ESTABLISHING AND MAINTAINING PERFORMANCE REVIEW DATES

A covered employee who transfers to a position in the same class in another agency or is reassigned to a position in the same class and agency within six months or less of his review date shall have the performance review date advanced six months from the date of the transfer or reassignment.

19-715.02 F. 1. ESTABLISHING AND MAINTAINING PERFORMANCE REVIEW DATES

A covered employee who transfers to a position in the same class in another agency or is reassigned to a position in the same class and agency who is more than six months from his review date shall not have the performance review date advanced six months from the date of the transfer or reassignment.

19-717 DISCIPLINARY ACTIONS**19-717.01 B. STATEMENTS OF POLICY**

Each agency shall develop a progressive discipline policy and establish procedures that will ensure timely and equitable treatment of employees' behavioral deficiencies and breaches of conduct.

19-718 STATE EMPLOYEE GRIEVANCE AND APPEALS**19-718.02 D. INTERNAL AGENCY GRIEVANCE PROCEDURES (Added)**

D. Each agency shall ensure that grievance information is recorded accurately and timely as required by the Office of Human Resources.

19-718.07 D. 3. a. APPEALS FORWARDED TO THE STATE EMPLOYEE GRIEVANCE COMMITTEE

The State Human Resources Director shall arrange for the reproduction of records, reports, and documentation timely submitted by both parties and make this information available, prior to the date of the hearing, to the designated Committee panel and Committee Attorney for that hearing.

19-718.07 E. 6. b. APPEALS FORWARDED TO THE STATE EMPLOYEE GRIEVANCE COMMITTEE

All proceedings before the Committee shall be recorded by OHR. The recording shall be preserved in accordance with the retention schedule of OHR.

19-718.07 E. 6. c. APPEALS FORWARDED TO THE STATE EMPLOYEE GRIEVANCE COMMITTEE

The covered employee or the agency who first files the notice of appeal seeking appellate review of a Committee decision is responsible for preparation of a transcript and paying the costs of preparation of a transcript of the hearing required for certification of the record to the Administrative Law Court. In addition, the appealing party is responsible for all costs associated with providing the record on appeal for the Administrative Law Court.

19-718.09 F. APPELLATE REVIEW OF ANY FINAL DECISION

F. The covered employee or the agency who first files the notice of appeal seeking appellate review of a final decision by: 1) the State Human Resources Director denying an appeal; 2) the State Employee Grievance Committee; or 3) a mediator-arbitrator, is responsible for any costs associated with providing the certification of record for the Administrative Law Court.

19-718.09 G. APPELLATE REVIEW OF ANY FINAL DECISION

G. Neither the Board nor OHR nor the State Human Resources Director nor the Committee nor the mediator-arbitrator may be named in the notice of appeal to the Administrative Law Court. However, any of these entities are entitled to make a motion in the Administrative Law Court to be allowed to intervene to participate in the appeal for appropriate reasons including their interest in defending their policies.

20 NOTICES

19-719 SEPARATION FROM STATE SERVICE

19-719.01 CONTINUOUS STATE SERVICE AND BREAK IN SERVICE (Only regulation title revised)

19-719.01 A. CONTINUOUS STATE SERVICE AND BREAK IN SERVICE

Continuous State Service - Continuous state service is service with one or more agencies without a break in service.

19-719.01 B. 6. CONTINUOUS STATE SERVICE AND BREAK IN SERVICE

Moves from an FTE position to a temporary, temporary grant, or time-limited position. Exception: When an employee in an FTE position moves to a temporary, temporary grant, or time-limited position within 15 calendar days following the last day worked (or approved day of leave) during the employee's TERI program period, he does not experience a break in service.

19-719.04 A. 2. REDUCTION IN FORCE

Each agency shall develop a reduction in force policy. This requirement shall not apply to academic personnel. However, each institution of higher learning or medical institution of education and research shall develop a policy outlining the criteria for a reduction in force for these employees.

19-719.04 B. 2. a. REDUCTION IN FORCE

A reason for the layoff as defined by the agency. These circumstances shall be either agency reorganization, work shortage, loss of funding, or outsourcing/privatization. If the reason for the reduction in force is that the agency can no longer meet its personal services budget, OHR will forward a copy of the plan to the Office of State Budget for concurrence on the budgetary issue prior to final approval.

19-719.04 B. 2. g. REDUCTION IN FORCE

Justification of the use of any retention of necessary qualifications as provided in the agency's reduction in force policy.

19-719.05 A. EXIT INTERVIEWS

Each agency should establish a procedure for obtaining separation information from each employee who separates from State service. This procedure should include an exit interview to reflect the specific reasons for the employee's separation. A reasonable effort should be made to interview the employee to obtain the information.

19-720 RECORDKEEPING

19-720.02 A.1. EMPLOYEE RECORDS

Employment application;

19-720.02 A.2. EMPLOYEE RECORDS

All human resources actions reflecting the employee's work history with the agency;

19-720.02 A.4. EMPLOYEE RECORDS

All performance evaluations.

19-720.03 RECORDS RELEASE (Only regulation title revised)

19-720.04 CENTRAL HUMAN RESOURCES INFORMATION DATA SYSTEM (Only regulation title revised)

BUILDING CODES COUNCIL**NOTICE OF GENERAL INTEREST**

Notice is hereby given that, in accordance with Section 6-9-40 of the 1976 Code of Laws of South Carolina, as amended, the South Carolina Building Codes Council intends to adopt the following building codes for use in the state of South Carolina.

Mandatory codes include the:

2009 Edition of the International Building Code;
 2009 Edition of the International Residential Code;
 2009 Edition of the International Fire Code;
 2009 Edition of the International Plumbing Code;
 2009 Edition of the International Mechanical Code;
 2009 Edition of the International Fuel Gas Code;
 2009 Edition of the International Property Maintenance Code;
 2009 Edition of the International Existing Building Code.

Permissive codes include the:

2009 Edition of the International Property Maintenance Code;
 2009 Edition of the International Existing Building Code;
 2009 Edition of the International Performance Code for Buildings and Facilities.

The Council specifically requests comments concerning sections of the proposed editions, which may be unsuitable for enforcement in South Carolina. Written comments may be submitted to Gary F. Wiggins, Council Administrator, at PO Box 11329, Columbia, SC 29211-1329, on or before December 1, 2009.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**PUBLIC NOTICE**

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 July 24, 2009, 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 Mrs. Sarah "Sallie" C. Harrell, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Anderson County

Renovation of existing space to replace a 0.23T Open Viva Magnetic Resonance Imaging (MRI) unit with a fixed 1.5T MRI unit
 Anderson Diagnostic Imaging, Inc.
 Anderson, South Carolina
 Project Cost: \$2,109,391

Affecting Charleston County

Establishment of a freestanding ambulatory surgical facility (ASF) with two (2) endoscopy rooms restricted to endoscopy procedures only
 The Colorectal EndoSurgery Institute of the Carolinas, LLC
 Charleston, South Carolina
 Project Cost: \$2,512,210

22 NOTICES

Affecting Greenville County

Upfit of existing shelled space for the addition of two (2) endoscopy rooms restricted to gastroenterology procedures only for a total of six (6) operating rooms (ORs) and four (4) endoscopy rooms restricted to gastroenterology procedures only

Greenville Hospital Outpatient Surgery Center-Patewood

Greenville, South Carolina

Project Cost: \$3,820,000

Affecting Horry County

Construction and renovation of existing space vacated by the relocation of the Laboratory Department (NA-08-45) and Pharmacy Department (E-08-108) for the expansion of the Emergency Department (ED); to comprise of six (6) additional exam rooms, a new sexual assault nurse examiner (SANE) exam room, four (4) new minor treatment exam rooms, an additional triage room, and two (2) additional psychiatric hold rooms.

Conway Medical Center

Conway, South Carolina

Project Cost: \$4,423,500

Affecting Sumter County

Renovation for the addition of a sixty-four (64) slice Computed Tomography (CT) scanner

Tuomey Healthcare System

Sumter, South Carolina

Project Cost: \$2,336,502

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 July 24, 2009. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Les W. Shelton, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 545-4200.

Affecting Barnwell County

Construction for the addition of sixteen (16) nursing home beds, which will not participate in the Medicaid (Title XIX) Program for a total of sixty (60) nursing home beds

Barnwell County Nursing Home

Barnwell, South Carolina

Project Cost: \$2,458,424

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

Statutory Authority: S.C. Code Section 48-1-10 et seq.

The South Carolina Department of Health and Environmental Control (Department) is publishing this public notice to provide interested persons the opportunity to comment on the Department's response to meet obligations of the United States Environmental Protection Agency (EPA). Specifically, the Department proposes to address the requirements under sections 110(a)(1) and (2) of the Clean Air Act (CAA), to address basic State Implementation Plan (SIP) requirements, including emission inventories, monitoring, and modeling to assure attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). To be considered, comments must be received by August 24, 2009, the close of the drafting comment period.

The Department is also providing the public with the opportunity to request a public hearing on the issue. If requested, a public hearing will be held on Tuesday, September 1, 2009, at 1:00 p.m., in room 3141 of the Sims Building, 2600 Bull Street, Columbia, South Carolina. The public is invited to attend. However, pursuant to 40 CFR 51.102, if no request for a public hearing is received by the close of the comment period (August 24, 2009), the hearing will be cancelled. If the public hearing is cancelled, the Department will notify the public at least one week prior to the scheduled hearing via the "Scheduled Public Hearings" link on the Air Quality Regulation Development webpage at <http://www.scdhec.gov/environment/baq/regulatory.aspx>. Interested persons may also contact Maeve S. R. Mason, Regulatory Development Section, Bureau of Air Quality, at 2600 Bull Street, Columbia, SC 29201, or via phone at (803) 898-2230 for more information or to find out whether the public hearing will be held.

Synopsis:

On October 17, 2006, the EPA promulgated new and revised National Ambient Air Quality Standards (NAAQS) for particulate matter (PM).

Specifically, the EPA promulgated revisions to the primary and secondary NAAQS for PM. With regard to the primary standards for fine particles or PM_{2.5} (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers), the EPA revised the level of the 24-hour PM_{2.5} standard to 35 micrograms per cubic meter (µg/m³) and retained the level of the annual PM_{2.5} standard at 15µg/m³. With regard to the primary standards for particles generally less than or equal to 10 µm in diameter (PM₁₀), the EPA retained the 24-hour PM₁₀ and revoked the annual PM₁₀ standard.

Under sections 110(a)(1) and (2) of the CAA, all States are required to submit plans to provide for the implementation, maintenance, and enforcement of the PM_{2.5} standard. Sections 110(a)(1) and (2) require States to address basic SIP requirements, including emission inventories, monitoring, and modeling to assure attainment and maintenance of the standard. By law, States are required to submit SIPs within three (3) years after promulgation of a new or revised standard, or September 21, 2009.

On December 14, 2007, the Department submitted a request to the EPA Region 4 at the request of Governor Mark Sanford and on behalf of the citizens of South Carolina, that the entire state of South Carolina be designated as "attainment" for the aforementioned PM standards. On August 19, 2008, the EPA Region 4, informed the Department that it agreed with the state's evaluation, and would move forward with a final designation in December 2008.

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Electronic mail correspondence between the Department and Region 4 staff clarified that in light of its attainment/unclassifiable status, South Carolina need only provide a formal written letter certifying that the aforementioned required elements of the CAA have been addressed within the South Carolina SIP.

The Department is certifying that the “infrastructure” elements pertaining to the PM_{2.5} attainment/unclassifiable areas in South Carolina [as required under Section 110(a)(1) and (2) of the CAA] have been addressed. Pending any comments received, a letter to this effect will be sent to the EPA.

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.

Class I Contractors perform work involving the collection and interpretation of investigative data; the evaluation of risk; and/or the design and implementation of corrective action plans. Class I applicants must satisfy registration requirements for a Professional Engineer or Geologist in South Carolina. Class II Contractors perform work involving routine investigative activities (e.g., soil or ground water sampling, well installation, aquifer testing) where said activities do not require interpretation of the data and are performed in accordance with established regulatory or industry standards.

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/or individuals listed below, please submit your comments in writing, no later than August 24, 2009 to:

Contractor Certification Program
South Carolina Department of Health and Environmental Control
Bureau of Land and Waste Management - Underground Storage Tank Program
Attn: Michelle Dennison
2600 Bull Street
Columbia, SC 29201

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

Class I

Ecological Resources, Inc.
Attn: James L. Cooper
PO Box 427
Elgin, SC 29045

Class II

DEPARTMENT OF AGRICULTURE
CHAPTER 5
 Statutory Authority: 1976 Code Section 46-21-20

Notice of Drafting:

The South Carolina Department of Agriculture is considering the amendment of regulations which govern, to the extent authorized by the S.C. Code, Title 46, Chapter 21, related to the standards and tolerance level of noxious weeds and varieties, as well as the procedures and requirements for carrying out the Seed Law, including the registration and enforcement of permits and licenses issued for the commercial sale of seed in South Carolina.

Interested parties should submit written comments to Anne E. Crocker, South Carolina Department of Agriculture, P.O. Box 11280, Columbia, SC 29211-1280. To be considered, comments should be received no later than August 31, 2009, the close of the drafting comment period.

Synopsis:

The proposed regulations will be amended to properly reflect the listing and tolerance of noxious weeds, as well as other seed standards used by the Department related to the uniform quality of seed products sold in South Carolina and purchased by South Carolina consumers.

These proposed regulations will require legislative action.

CLEMSON UNIVERSITY
STATE CROP PEST COMMISSION
CHAPTER 27
 Statutory Authority: 1976 Code Section 46-9-40

Notice of Drafting:

The State Crop Pest Commission is contemplating imposing a quarantine for Citrus Greening Disease, also known as Huanglongbing (*Candidatus Liberibacter asiaticus*). Please address all comments to Dr. Christopher Ray, 511 Westinghouse Road, Pendleton, S. C. 29670. To be considered comments must be received no later than 5:00 P.M., September 1, 2009 the close of the drafting comment period.

Synopsis:

This regulation would deal with the quarantine of certain plant materials which are hosts to the disease, which is a serious disease of citrus plants. The spread of the disease will pose a serious threat to the export market. The General Assembly has recently enacted a Joint Resolution concerning this plant pest; this regulation is designed to replace the Joint Resolution.

Legislative review of this proposal will be required.

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CLEMSON UNIVERSITY STATE CROP PEST COMMISSION CHAPTER 27

Statutory Authority: 1976 Code Section 46-9-40

Notice of Drafting:

The State Crop Pest Commission is contemplating amending Regulation 27-78, a quarantine imposed for *Phytophthora ramorum*. The amended regulation would expand the regulated areas to include any areas regulated for the disease by any state or federal plant pest agencies. Please address all comments to Dr. Christopher Ray, 511 Westinghouse Road, Pendleton, S. C. 29670. To be considered comments must be received no later than 5:00 P.M., September 1, 2009 the close of the drafting comment period.

Synopsis:

This disease manifests itself in a disease known as Sudden Oak Death but also as a secondary disease known as ramorum blight. Certain areas of certain states are under either quarantine actions, or have had certain areas designated as regulated areas in an attempt to prevent the spread of the disease, which would pose a serious threat to the export market and to domestic agricultural and horticultural activities.

Legislative review of this proposal will be required.

STATE BOARD OF EDUCATION CHAPTER 43

Statutory Authority: 1976 Code Sections: 59-5-60, 59-50-10 et seq., and 20 U.S.C. 6301 et seq.

Notice of Drafting:

The South Carolina Department of Education (SCDE) proposes to amend R.43-205, Administrative and Professional Personnel Qualifications, Duties, and Workloads. Interested persons are invited to present their comments in writing to Robin Rivers, Interim Director of the Office of Standards and Support, Division of Standards and Learning, South Carolina Department of Education, 1429 Senate Street, Room 805, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on August 24, 2009, the close of the drafting period.

Synopsis:

The proposed regulation change is to advance the SCDE administration of South Carolina General Assembly legislation that affects current State Board of Education Regulations. The proposed regulation change requires school districts to comply with certain academic best practices.

The proposed regulation will require legislative review.

STATE BOARD OF EDUCATION
CHAPTER 43
 Statutory Authority: 1976 Code Section 59-29-190

Notice of Drafting:

The South Carolina Department of Education (SCDE) proposes to amend R.43-258.1 Advanced Placement. Interested persons are invited to present their comments in writing to Robin Rivers, Interim Director of the Office of Standards and Support, Division of Standards and Learning, South Carolina Department of Education, 1429 Senate Street, Room 805, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on August 24, 2009, the close of the drafting period.

Synopsis

The proposed regulation change is to advance the SCDE administration of South Carolina General Assembly legislation that affects current State Board of Education Regulations. The proposed regulation change requires school districts to comply with certain academic best practices.

The proposed regulation will require legislative review.

STATE BOARD OF EDUCATION
CHAPTER 43
 Statutory Authority: 1976 Code Sections 59-5-60, 59-5-65, 59-53-1810 and 59-59-60

Notice of Drafting:

The State Board of Education proposes to amend R.43-236 (Supp. 2008), Career or Technology Centers/Comprehensive High Schools. Interested persons may submit comments to Dr. James R. (Bob) Couch, Director of the Office of Career and Technology Education, Division of Standards and Learning, South Carolina Department of Education, 1429 Senate Street, Rutledge Building, Room 912-A, Columbia, South Carolina 29201 or by e-mail to jcouch@ed.sc.gov. To be considered, comments must be received no later than 5:00 p.m., August 24, 2009, the close of the drafting period.

Synopsis:

The Education and Economic Development Act (EEDA) was passed by the General Assembly during the 2005 legislative session. S.C. Code Ann. Section 59-59-60(1) (2004) required that districts “organize high school curricula around a minimum of three clusters of study and cluster majors.” Comprehensive high schools offer academic and career and technical education curricula supporting career majors, and career centers enable students, in some content areas, to complete cluster majors in conjunction with courses taken at their high schools. Career and technology centers also offer curricula on site allowing students to take all coursework necessary to complete cluster majors. R.43-236 (Supp. 2008) must be amended to clarify how the two career and technical career majors identified in R.43-236 (Supp. 2008) align with the three cluster majors as identified in the EEDA S.C. Code Ann. Section 59-59-60(1) (2004). Content in the February 28, 2003, version of the regulation specifically addressed career and technical program majors and must be revised to provide clarity and direction to educators. The EEDA and Perkins legislation includes language supporting the changes that may result in providing clarification of the existing regulation.

Legislative review of this proposal will be required.

28 DRAFTING NOTICES

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Sections: 59-5-60, 59-29-10 et seq., 59-29-200 and 59-33-30

Notice of Drafting:

The South Carolina Department of Education (SCDE) proposes to amend R.43-231, Defined Program, Grade K–5. Interested persons are invited to present their comments in writing to Robin Rivers, Interim Director of the Office of Standards and Support, Division of Standards and Learning, South Carolina Department of Education, 1429 Senate Street, Room 805, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on August 24, 2009, the close of the drafting period.

Synopsis:

The proposed regulation change is to advance the SCDE administration of South Carolina General Assembly legislation that affects current State Board of Education Regulations. The proposed regulation change requires school districts to comply with certain academic best practices.

The proposed regulation will require legislative review.

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-29-10 et seq., 59-29-200, 59-33-30 and 59-63-55

Notice of Drafting:

The South Carolina Department of Education (SCDE) proposes to amend R.43-232, Defined Program, Grades 6–8. Interested persons are invited to present their comments in writing to Robin Rivers, Interim Director of the Office of Standards and Support, Division of Standards and Learning, South Carolina Department of Education, 1429 Senate Street, Room 805, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on August 24, 2009, the close of the drafting period.

Synopsis:

The proposed regulation change is to advance the SCDE administration of South Carolina General Assembly legislation that affects current State Board of Education Regulations. The proposed regulation change requires school districts to comply with certain academic best practices.

The proposed regulation will require legislative review.

STATE BOARD OF EDUCATION**CHAPTER 43**

Statutory Authority: 1976 Code Sections 59-5-60, 59-18-110, 59-29-10, et seq., 59-29-200, 59-33-30, 59-53-1810, 20 U.S.C. 1232(g) and 20 U.S.C. 6301 et seq.

Notice of Drafting:

The South Carolina Department of Education (SCDE) proposes to amend R.43-234, Defined Program, Grades 9–12. Interested persons are invited to present their comments in writing to Robin Rivers, Interim Director of the Office of Standards and Support, Division of Standards and Learning, South Carolina Department of Education, 1429 Senate Street, Room 805, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on August 24, 2009, the close of the drafting period.

Synopsis:

The proposed regulation change is to advance the SCDE administration of South Carolina General Assembly legislation that affects current State Board of Education Regulations. The proposed regulation change requires school districts to comply with certain academic best practices.

The proposed regulation will require legislative review.

STATE BOARD OF EDUCATION**CHAPTER 43**

Statutory Authority 1976 Code Sections 59-5-60 and 59-53-1810

Notice of Drafting:

The State Board of Education proposes to promulgate the repeal R.43-233 (Supp. 2008), South Carolina Four-Year State Plan for Career and Technology Education, Fiscal Years 2001-2004. Interested persons may submit comments to Dr. James R. Couch, Director, Office of Career and Technology Education, Division of Standards and Learning, South Carolina Department of Education, 1429 Senate Street, Rutledge Building, Room 912, Columbia, South Carolina 29201. To be considered, comments must be received no later than 5:00 P.M., August 24, 2009, the close of the drafting comment period.

Synopsis:

The South Carolina Four-Year State Plan for Career and Technology Education, and the subsequent updates and extensions authorized by the U.S. Department of Education under the Carl D. Perkins Vocational and Technical Education Act of 1998 (Perkins III) expired on June 30, 2007. The Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV) created the need for a one-year transition plan and a subsequent five-year plan for approval to receive the federal funds from the U.S. Department of Education. The state plan must be updated periodically according to guidelines issued by the U.S. Department of Education. There is no requirement that the state plan approved by the U.S. Department of Education be incorporated into a State Board of Education Regulation.

Legislative review of this proposal will not be required.

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STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Section 59-5-60

Notice of Drafting:

The South Carolina Department of Education (SCDE) proposes to amend R.43-220, Gifted and Talented. Interested persons are invited to present their comments in writing to Robin Rivers, Interim Director of the Office of Standards and Support, Division of Standards and Learning, South Carolina Department of Education, 1429 Senate Street, Room 805, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on August 24, 2009, the close of the drafting period.

Synopsis

The proposed regulation change is to advance the SCDE administration of South Carolina General Assembly legislation that affects current State Board of Education Regulations. The proposed regulation change requires school districts to comply with certain academic best practices.

The proposed regulation will require legislative review.

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-5-65, 59-20-40 and 59-63-20

Notice of Drafting:

The South Carolina Department of Education (SCDE) proposes to amend R.43-264.1, Half-Day Child Development Programs. Interested persons are invited to present their comments in writing to Robin Rivers, Interim Director of the Office of Standards and Support, Division of Standards and Learning, South Carolina Department of Education, 1429 Senate Street, Room 805, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on August 24, 2009, the close of the drafting period.

Synopsis:

The proposed regulation change is to advance the SCDE administration of South Carolina General Assembly legislation that affects current State Board of Education Regulations. The proposed regulation change requires school districts to comply with certain academic best practices.

The proposed regulation will require legislative review.

STATE BOARD OF EDUCATION**CHAPTER 43**

Statutory Authority: 1976 Code Sections 44-7-130, 59-33-90, and 20 U.S.C. 1400 et seq.

Notice of Drafting:

The State Board of Education proposes to promulgate a new regulation dealing with standards for educational programs operated by or on behalf of residential treatment facilities (RTFs). Interested persons may submit comments to Marlene Metts, Director, Office of Exceptional Children, Division of Standards and Learning, South Carolina Department of Education, 1429 Senate Street, Rutledge Building, Room 808, Columbia, South Carolina 29201 or by e-mail to mametts@ed.sc.gov. To be considered, comments must be received no later than 5:00 p.m., August 24, 2009, the close of the drafting comment period.

Synopsis:

The Individuals with Disabilities Education Act (IDEA) of 2004 requires each state educational agency (SEA) to ensure that a child with a disability who is placed or referred to a private school or facility by a public agency is provided an education that meets the standards that apply to education provided by the state educational agencies (SEA) and local educational agencies (LEAs) [34 CFR §300.146]. Federal law also requires that the SEA distribute copies of applicable standards to each private school and facility to which a public agency has referred or placed a child with a disability and to provide those private schools and facilities an opportunity to participate in the development and revision of the State standards that apply to them [34 CFR §300.147].

The new regulation will outline the standards for educational programs operated by RTFs or on behalf of children in RTFs and the process for obtaining approval for an educational program operated by an RTF. The new regulation will assist the South Carolina Department of Education (SCDE) in ensuring that all children placed in RTFs by public agencies have available to them an educational program defined by and approved by the SCDE. The regulation will provide guidance to assist LEAs, public/state placing agencies, and RTFs, in understanding the principles, procedures, and standards in the approval of educational programs serving children with and without disabilities in RTFs. The regulation will also assist the Department of Health and Environmental Control (DHEC) with licensing insofar as the DHEC licensure of RTFs requires that RTFs provide educational programs approved by the SCDE.

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

Statutory Authority: 1976 Code Section 44-1-180

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend R.61-29, Environmental Health Inspections and Fees. Interested persons may submit comments to H. Michael Longshore, Division of General Sanitation, Bureau of Environmental Health, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201-1708. Comments submitted must be received by 5:00 p.m. on August 24, 2009, the close of the drafting comment period.

Synopsis:

R.61-29, Environmental Health Inspections and Fees, was promulgated with an initial effective date of June 26, 1992; to date, there have been no changes to this regulation. This regulation sets the inspection fee charged for environmental health inspections conducted by the Department in facilities regulated or licensed by other

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state agencies, including, but not limited to, child care facilities, foster homes, child residential care facilities, and spouse abuse shelters. Since the last revision, the cost of providing these inspections has increased significantly, so that the prescribed fee no longer covers the Department's cost to provide this service. Amendments will include language that allows the Department to set the fee at a level that will offset the cost of providing the service and conducting the inspections. Other amendments may be made to the regulation to clarify language.

This amendment will require legislative review.

DEPARTMENT OF INSURANCE

CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-10 et seq., and 38-3-110(2)

Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-23, Agents and Agency Licenses. Interested persons should submit their comments in writing to: Rachel Harper, South Carolina Department of Insurance, 1201 Main Street, Suite 1000, Columbia, South Carolina 29201 or P.O. Box 100105, Columbia, South Carolina 29202. To be considered, comments must be received no later than 5:00 p.m. on August 24, 2009 the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-23, Agents and Agency Licenses. The amendments to Regulation 69-23 will bring the regulation into agreement with current statutory requirements.

The proposed amendment of Regulation 69-23 will require legislative review.

DEPARTMENT OF NATURAL RESOURCES

CHAPTER 123

Statutory Authority: 1976 Code Section 50-11-2200

Notice of Drafting:

The Department of Natural Resources proposes to amend Regulations 123-40 "Hunt Units and Wildlife Management Area Regulations" and 123-51 "Turkey Hunting Rules and Seasons". The subject of the proposed action is to amend the regulations to modify existing seasons and methods and add new wildlife management areas to allow additional hunting opportunity. Any person interested may submit written comments to Breck Carmichael, Deputy Director, Wildlife & Freshwater Fisheries Division, S.C. Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

Synopsis:

These amended regulations will allow the expansion of existing seasons and methods within the current season framework to allow additional opportunity on existing and new Wildlife Management Areas. These regulations set seasons, bag limits and methods of hunting and taking of wildlife and other restrictions on Wildlife Management Areas.

DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123
Statutory Authority: 1976 Code Section 50-11-2200

Notice of Drafting:

The Department of Natural Resources proposes to amend Regulations 123-200, 123-201, 123-203, 123-204 and 123-205, "Regulation of Real Property Owned by the Department". The subject of the proposed action is to amend the regulations to modify existing use restrictions due to recent changes in 50-11-2200 by Act 63, effective June 2, 2009, and to add additional properties acquired to allow public use. Any person interested may submit written comments to Breck Carmichael, Deputy Director, Wildlife & Freshwater Fisheries Division, S.C. Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

Synopsis:

These amended regulations will allow the expansion of existing use of DNR properties and allow additional opportunity on new areas. These regulations set general and specific uses allowed on DNR-owned lands and Wildlife Management Areas. Since 50-11-2200 now prohibits many uses of DNR lands, regulations are required to allow use and set restrictions and conditions.

34 PROPOSED REGULATIONS

Document No. 4082

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

61-62. Air Pollution Control Regulations and Standards

Preamble:

The United States Environmental Protection Agency (EPA) promulgates amendments to 40 CFR Parts 60, 61, 63, and 72 throughout each calendar year. Recent Federal amendments include clarification, guidance and technical amendments regarding *Standards Of Performance For New Stationary Sources*, *National Emission Standards For Hazardous Air Pollutants*, and *National Emission Standards for Hazardous Air Pollutants For Source Categories*. Among the revisions being proposed are amendments to R. 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards (NSPS), R. 61-62.61, National Emission Standards for Hazardous Air Pollutants (NESHAP), R. 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, and R. 61-62.72, Acid Rain, to incorporate recent Federal amendments promulgated during the period from January 1, 2008, through December 31, 2008. The Department also proposes to amend R. 61-62.5, Standard No. 2, Ambient Air Quality Standards, to adopt the Federal change in the National Ambient Air Quality Standards (NAAQS) pursuant to 40 CFR for the 8-hour primary and secondary standard for ozone, and rolling 3-month average primary and secondary standard for lead.

The proposed amendments to R. 61-62, Air Pollution Control Regulations and Standards, are necessary to maintain consistency with Federal rules. Pursuant to S.C. Code Section, 1-23-120(H)(1), the proposed amendments will not require legislative review.

A Notice of Drafting for these proposed changes was published in the *State Register* on March 27, 2009. Since this amendment is consistent with Federal law, neither a preliminary fiscal impact statement nor a preliminary assessment report is required.

Section-by-Section Discussion of Proposed Revisions:

SECTION CITATION/EXPLANATION OF CHANGE:

R. 61-62.5, Std. No. 2

Amend Table to reflect changes in 8-hour primary and secondary standard for ozone, and rolling 3-month average primary and secondary standard for lead.

R. 61-62.60

Tables in Subparts A, J, VV, VVa, GGG, and GGGa are amended to incorporate revisions.

R. 61-62.60

Subparts Ja and JJJJ are added.

R. 61-62.61

Table in Subpart A is amended to incorporate revisions.

R.61-62.63

Tables in subparts A, G, H, M, R, U, HH, EEE, GGG, HHH, JJJ, VVV, EEEE, FFFF, UUUU, ZZZZ, BBBB, EEEEE, GGGGG, HHHHH, LLLLLL, MMMMMM, NNNNNN, OOOOOO, PPPPPP, and QQQQQQ are amended to incorporate revisions.

R. 61-62.63

Subparts ZZZZZ, BBBB, CCCCC, HHHHH, WWWWW, XXXXX, YYYYY are added.

R. 61-62.72

Table in Subpart A is amended to incorporate revisions.

Notice of Staff Informational Forum and Public Comment:

Staff of the South Carolina Department of Health and Environmental Control invites interested members of the public to attend a staff-conducted informational forum to be held on August 24, 2009 at 10:00 a.m. in room 2380 at the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The purpose of the forum is to answer questions, clarify any issues, and receive comments from interested persons on the proposed amendments to R. 61-62, Air Pollution Control Regulations and Standards.

Interested persons are also provided an opportunity to submit written comments to Andrew O. Hollis at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on August 24, 2009. Comments received at the forum or during the write-in public comment period shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Andrew O. Hollis at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-4196.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to comment on the proposed amendments to R. 61-62, Air Pollution Control Regulations and Standards, at a public hearing to be conducted by the Board of the South Carolina Department of Health and Environmental Control at its regularly-scheduled meeting on October 8, 2009. The public hearing is to be held in room 3420 (Board Room) of the Commissioner's Suite, third floor, Aycock Building of the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department twenty-four hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Statement of Need and Reasonableness:

This statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: Amendments to Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina State Implementation Plan (SIP).

Purpose of Regulation: These amendments will maintain conformity with Federal requirements and ensure compliance with Federal standards pursuant to 40 CFR 50, 60, 63 and 72.

Legal Authority: The legal authority for R. 61-62, Air Pollution Control Regulations and Standards, is S.C. Code Section 48-1-10 et seq.

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Plan for Implementation: The proposed amendments will take effect upon approval and adoption by the South Carolina Board of Health and Environmental Control and publication in the State Register.

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

Each year the United States Environmental Protection Agency (EPA) promulgates amendments to Federal regulations to include clarification, guidance and technical amendments. States are mandated by law to adopt these Federal amendments. These amendments are reasonable as they promote consistency and ensure compliance with both State and Federal regulations.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions as a result of these amendments. The standards to be adopted are already effective and applicable to the regulated community as a matter of Federal law. The proposed amendments will benefit the regulated community by clarifying the regulations and increasing their ease of use.

UNCERTAINTIES OF ESTIMATES:

The EPA has provided the estimated costs and benefits for these standards in the *Federal Register* notices that are cited within this document.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Adoption of the recent changes in Federal law through the proposed amendments to R. 61-62, Air Pollution Control Regulations and Standards, and the SIP will provide continued protection of the environment and public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED:

While there is no specific detrimental effect on the environment and public health, the State's authority to implement Federal requirements, which are believed to be beneficial to the public health and environment, would be compromised if these amendments were not adopted in South Carolina.

Text:

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

Document No. 4081
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 44-75-10 et seq.

61- 96. Athletic Trainers

Preamble:

The Department is proposing to amend R.61-96. Major focus of this revision addresses the description of the profession and certification and examination requirements for consistency with changes in South Carolina law and changes in national scope and standards. Revision of the enforcement and appeal sections is proposed to bring the regulation current with state law changes. A Severability clause is added, and the table of contents is being updated. Revisions to style, language and grammar for clarity, readability and consistency are proposed throughout the regulation for overall improvement of the regulation.

A Notice of Drafting for this proposed revision was published in the *State Register* on April 24, 2009.

Section-by Section Discussion of Proposed Revision:

Statutory Authority Section

The existing text cites the incorrect statute. Change was made to reflect the correct statute.

Table of Contents

Table updated to reflect changes.

Body of Document

Section A

Heading. Grammatical change made for codification and clarity.

A.1. The existing text “insure” changed to “assure” for clarity.

A.2. and A.3. Stylistic nonsubstantive change to citations of law for consistency - no change in statute.

B. The existing text that addresses the description of the profession is being revised to add “an individual” to give clarity to the reference of “athletic trainer;” several grammatical changes are made for clarity and readability; number of domains increased to seven to be consistent with the national standard.

B.1 through 6. Original domain headings were deleted. New domain headings and definitions were added for consistency with national standard.

C.1. Verbiage was added to clarify the successful completion of the athletic trainer examination; grammatical changes were made for clarity and consistency with the national standard.

C.1.a. Grammatical change made for clarity. Existing text broken into two sections for codification purposes.

C.1.b. Original text deleted as it was redundant.

C.1.c. Original text deleted as it was redundant.

C.3. Verbiage changed to reflect the new name of the examination to be consistent with the national standard.

C.4. and C.4.a. Added word “application” for clarification.

C.4.b. Grammatical change made for clarity and readability.

C.5. Stylistic revision to change “his/her” to “his or her” for consistency.

C.6. Grammatical changes made for clarity, consistency and readability.

D. Grammatical change made for clarity, consistency and readability.

D.a. Verbiage deleted as it was redundant.

D.b. through D.c.2. Codification changes made for consistency; the word “certificate” added for consistency within “Other Fees” section. Fee amounts are unchanged but are written out in words as well as numbers for stylistic consistency.

E. Codification changes made for consistency within the document; verbiage added for clarity regarding the status of the applicant’s certificate.

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- F. Codification changes made for consistency within the document; verbiage added to allow provisions for female athletic trainers; verbiage added to clearly identify those who are exempt from certification.
- F.a. Codification change made for consistency within the document; verbiage added to clarify exemption requirements for professionals.
- F.b. Codification change made for consistency within the document; verbiage added to allow provisions for female athletic trainers and clarity.
- F.c. Codification change made for consistency within the document; verbiage added to clarify employment exemption.
- F.d. Codification change made for consistency within the document; verbiage added for clarity.
- G. Codification and grammatical changes made for consistency and clarity within the document.
- H.1. Grammatical change made for clarity and readability.
- H.2. Stylistic revision to change “his/her” to “his or her.”
- J.1. Verbiage deleted for clarity.
- J.2. Codification and grammatical changes made for consistency and clarity within the document.
- J.3. Grammatical change made for consistency.
- J.4. Original verbiage deleted as it was unclear as written. New verbiage added to clarify continuing education requirement for certificate renewal.
- J.5. Grammatical changes made for clarity. Verbiage changed to accurately reflect role of committee.
- K. Subsection heading revised to more accurately reflect section contents.
- K1. Grammatical changes made for readability and clarity. Verbiage added to clarify conduct violations that would result in revocation, suspension or denial of certification.
- K.2. Verbiage added for clarity and consistency within the document.
- K.3. Redundant language deleted. Verbiage added to identify role of the committee and the maximum revocation period.
- K.4. Appeals process language added for consistency with new appeal standards.
- L. Subsection heading revised to more accurately reflect section contents.
- L.1. Grammatical changes made for clarity.
- L.3. Verbiage added for readability.
- M. Category title “Responsibilities of the Department” added for consistency within the document.
- M.2 Stylistic nonsubstantive change to citation of law for consistency - no change in statute.
- M.5. Grammatical changes made for clarity and readability.
- M.6. Grammatical change made for readability.
- M.7. Verbiage changed from “keep track” to “maintain a record” for clarity.
- N. Severability clause added for consistency with departmental regulatory standard.

Notice of Staff Informational Forum and Public Comment Period:

The staff of the Department of Health and Environmental Control invites interested members of the public and regulated community to attend a staff-conducted informational forum August 27, 2009, at 1:30 p.m. in the 1st floor conference room in the Heritage Building at 1777 St. Julian Place, Columbia, South Carolina. The purpose of the forum is to answer questions, clarify any issues, and receive oral or written public comments from interested persons on the proposed amendment of R.61- 96.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations by writing to Alonzo Smith, Division of Emergency Management Services and Trauma, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 4:00 p.m. on August 27, 2009, the close of the public comment period.

Copies of the proposed regulation revision for public notice and comment may be obtained by contacting Mr. Alonzo Smith at the above address. A copy of the Notice of Proposed Regulation and text of the proposed regulations may also be obtained through the Department's *Regulation Development Update* at <http://www.scdhec.gov/regulatory.htm>; click on the *Update*, then the Athletic Trainers category for this proposal and download.

Comments received at the forum or during the write-in public comment period above-noticed shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed revision of R.61-96 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting October 8, 2009. The public hearing is to be held in Room 3420 (Board Room) of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. Please use the front entrance to the building facing Bull Street. The Board meeting commences at 10:00 a.m., at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and, as a courtesy, are asked to provide written copies of their presentation for the record.

Preliminary Fiscal Impact Statement:

There will be no additional costs to the State to implement these changes. See Statement of Need and Reasonableness below.

Statement of Need and Reasonableness:

This statement of need and reasonableness was determined by staff analysis pursuant to the S.C. Code Ann. Sections 1-23-115(C)(1)-(3) and (9)-(11) (2005).

DESCRIPTION OF REGULATION: Regulation 61- 96, Athletic Trainers.

Purpose of the Regulation: Revision of this regulation is to provide consistency with changes in the SC Code of Laws and with changes in national scope.

Legal Authority: Sections 44-75-10 et seq., S.C. Code of Laws, 1976, as amended.

Plan for Implementation: The proposed revision will take effect upon publication in the *State Register* following approval by the Board and the S.C. General Assembly. The proposed revision will be implemented by providing the regulated community with copies of the regulation, and enforced through credential verification and subsequent certification by the Department.

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

1. The proposed revision is needed and reasonable because it will bring the Department into compliance with the statutory mandate to review and update regulations if necessary.

2. The proposed revision is needed and reasonable because it is necessary to update the regulation to give consistency to South Carolina law (e.g., Sections 44-75-10 et seq., S.C. Code of Laws, 1976, as amended).

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3. The proposed revision is needed and reasonable because it will bring the regulation more into consistency with national scope.

4. The proposed revision is needed and reasonable because it will update the enforcement action process and appeal process.

5. The proposed revision is needed and reasonable because it will improve the overall quality of the regulation.

The regulation was last amended in June of 1993. Since that time there have been changes in SC State Laws and changes in national scope related to athletic trainers.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State. There will be no cost to political subdivisions of the state. There will be no increased costs to the regulated community.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment. The regulation revision will promote public health by updating standards for regulating athletic trainers.

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

If the regulation is not implemented, the S.C. regulation will not be consistent with the National Athletic Trainer Standards.

Statement of Rationale:

Department staff determined during its review of R.61-96 that it was appropriate to revise the regulation. R.61-96 was last amended in June of 1993. See the Statement of Determination of Need and Reasonableness above for more information regarding the factors influencing the Department staff decision to revise the regulation.

Text:

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

Document No. 4080
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 44-56-10 et seq.

61-79 Hazardous Waste Management Regulations

Preamble:

1. The U.S. Environmental Protection Agency (EPA) promulgated amendments to 40 CFR 260, 261, 264, and 266 during the previous calendar year. Recent federal amendments affect three Final Rules promulgated between July 1, 2007 and June 30, 2008. The adoption of these three rules is optional to states. The Department proposes to amend R.61-79 to adopt these three rules to maintain conformity with federal regulations. These amendments will be less stringent than the previous federal equivalent and will modify the current state regulations. Legislative review of the three rules is required because, while the changes in these rules will not make South Carolina less stringent than federal initiatives, the changes will be less stringent than current South Carolina regulations. The three rules proposed for adoption are as follows:

Rule (1) The Regulation of Oil-Bearing Hazardous Secondary Materials Processed in a Gasification System to Produce Synthesis Gas. This rule was published in the *Federal Register* at 73 FR 57 on January 2, 2008. See Discussion of changes below and the Statement of Need and Reasonableness herein.

Rule (2) National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors; Amendments (NESHAP): Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II). This amendment was published in the *Federal Register* at 73 FR 18970 on April 8, 2008. See Discussion of changes below and the Statement of Need and Reasonableness herein.

Rule (3) Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019. This amendment was published in the *Federal Register* at 73 FR 31756 on June 4, 2008. See Discussion of changes below and the Statement of Need and Reasonableness herein.

2. Site Specific Inspection Checklist: The Department is also proposing to amend R.61-79 to reinsert a state requirement under R.61-79.270 Subpart B Permit Application, at 270.10 - General Application Requirements pursuant to 40 CFR 270. This regulation requires a site-specific inspection checklist for use in compliance inspections. See Discussion of changes below and the Statement of Need and Reasonableness herein.

3. The Federal Manifest System (FMS), for shipping of hazardous waste. The FMS was adopted by South Carolina on June 27, 2007, pursuant to 40 CFR 262 which requires a national manifest for shipping hazardous waste. The Department is also proposing to amend section 262 of R.61-79 by removing the reference to the *Federal Register* for the specifics of the manifest instructions and replacing it with the actual federal language of the requirements for obtaining and filing official copies of the national manifest. See Discussion of changes below and the Statement of Need and Reasonableness herein.

A Notice of Drafting initiating the statutory process to amend R.61-79 was published in the *State Register* on November 28, 2008. Notice was also published on the Department's Regulatory Information Internet site in its monthly *DHEC Regulation Development Update*, as well as on the DHEC Land and Waste Management Internet site.

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Section-by-Section Discussion of Proposed Revisions

R.61-79.

260.10 Definitions. Add in alphabetical order the definition of “Gasification” to provide a definition for the process of regulating oil-bearing hazardous secondary materials in the petroleum refining industry to produce synthesis gas.

261.4 - Revise 261.4(a)(12)(i) by adding gasification in alphabetical order to the list of Exclusions under the Identification and listing of hazardous waste section that starts with the words: “...including, but not limited to, distillation, catalytic cracking, fractionation, gasification (as defined in 40 CFR 260.10) thermal cracking units (i.e., cokers)...”

261.31(a)/Table - Amend (a)/Table by revising the entry for F019. This is a table of hazardous waste from nonspecific sources.

261.31(b)(4) - Add paragraph (b)(4) and (b)(4)(i)-(ii) - to establish the requirements for the F019 listing of wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process. 261.31(b)(4)(i) is added to clarify the definition of motor vehicle manufacturing for the purposes of the F019 exclusion. 261.31(b)(4)(ii) is added to clarify record keeping requirements and retention schedules in the F019 rule.

262.21 Introductory paragraph remains. Remove “Reserved status” for (a) through (f). Remove the reference to the *Federal Register* in the 262.21 Note. Add sections 262.21(a)-(f) to provide specific information on filling out a manifest. (g) remains the same. Add (h) through (m). This rule on the national Manifest has already been adopted into the SC regulations but the specific instructions that were referenced in the *Federal Register* are being added to the regulation verbatim to aid inspectors in the field rather than referencing the *Federal Register* that finalized this rule.

264.340(b)(1) and (3) and (5) - Revise paragraphs (b)(1) and (b)(3) to clarify several compliance and monitoring provisions and to correct omissions in the NESHAP rule promulgated October, 2005. Remove paragraph (b)(5) to avoid duplication. Since paragraph (b)(5) is removed, the language in (b)(1) must be changed to reflect the deletion of paragraph (b)(5). Language is added to (b)(3) for clarification. Sections (b)(2) and (b)(4) remain the same.

266.100(b)(3)(ii) Redesignate the second paragraph (b)(3)(ii) as (b)(3)(iii) to correct a typographical error.

270.10(m) Insert a State specific inspection checklist. This checklist requirement was overwritten by a federal requirement under the NESHAP rule adopted in June 2007, effectively deleting the state required checklist. The requirement for the checklist is being put back into the regulations for inspectors. It was originally at 270.10(l) but since there is now a federal requirement at 270.10(l), the checklist will be reinserted at 270.10(m)

Notice of Staff Informational Forum and Public Comment Period:

Staff of the Department of Health and Environmental Control invites interested members of the public and regulated community to attend a staff conducted informational forum to be held on Tuesday, August 25, 2009, at 10:00 a.m. in Room 1041 at the Stern Building at 8911 Farrow Road Suite 106. The purpose of the forum is to answer questions and to receive public comments from interested persons on the proposed amendment of R.61-79.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation at the forum or during a public comment period by writing to Richard Haynes, Director, Division of Waste

Management, 2600 Bull Street, Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 p.m. on August 25, 2009, the close of the public comment period. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for public hearing before the Board as noticed below.

Information or copies of the proposed text for public notice and comment may be obtained at the Department's *Regulation Development Update* under the Land and Waste Category at <http://www.scdhec.gov/regulatory.htm>, or at the Land and Waste website at: <http://www.scdhec.gov/lwm/html/public.html> or by calling Carolyn McLaughlin at (803) 896-4254.

Relevant public comments received at the Forum and during the public comment period above-noticed shall be submitted to the Board of Health and Environmental Control in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed amendment of R.61-79 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on October 8, 2009. The public hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The Board's agenda will be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

Preliminary Fiscal Impact Statement:

There will be minimal cost to the state and its political subdivisions. See Statement of Need and Reasonableness below.

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness complies with SC Code Ann. Section 1-23-115(c)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: Proposed amendment of R.61-79, Hazardous Waste Management Regulations.

Purpose: The purpose of this amendment is to maintain State consistency with regulations of the United States Environmental Protection Agency (EPA), which promulgated amendments to 40 CFR 260 through 266, between July 1, 2007 and June 30 2008. The Department also proposes to reinsert a State required checklist for use by inspectors and verbatim instructions for the use of a national manifest, replacing the reference to the *Federal Register* that provided the instructions.

Legal Authority: South Carolina Hazardous Waste Management Act, 1976 S. C. Code Ann. Section 44-56-10 et seq..

Plan for Implementation: Upon final approval by the Board of Health and Environmental Control, approval by the South Carolina General Assembly and publication in the *State Register* as a final regulation, amended regulations will be provided in hard copy and electronic formats to the community at cost through the Department's Freedom of Information Office and at the Bureau web site.

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

1. The U.S. EPA promulgated amendments to 40 CFR 260, 261, 264 and 266 during the previous calendar year. Recent federal amendments affect three Final Rules promulgated between July 1, 2007 and June 30, 2008. The adoption of these three rules is optional to states. The Department proposes to amend R.61-79 to adopt these three rules to maintain conformity with federal regulations. The new rules will be less stringent than current state regulation. The determination of need and reasonableness for the three rules is as follows:

Rule (1). The Regulation of Oil-Bearing Hazardous Secondary Materials Processed in a Gasification System to Produce Synthesis Gas. This was published in the *Federal Register* at 73 FR 57 on January 2, 2008. EPA amended an existing exclusion from the definition of solid waste for oil-bearing hazardous secondary materials when they are processed in a gasification system at a petroleum refinery for the production of synthesis gas. The rationale behind the rule is to capture as much energy from a barrel of oil as possible to maximize production efficiencies at petroleum refineries in an energy-constrained world. The final rule revises this exclusion to add gasification to the list of recognized petroleum refinery processes into which oil-bearing hazardous secondary materials can be legitimately recycled.

Rule (2). National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors; Amendments (NESHAP): Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II). This amendment was published in the *Federal Register* at 73 FR 18970 on April 8, 2008. This rule amends the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) final rule for typographical errors and clarification of compliance monitoring provisions and finalizes amendments to NESHAP. EPA is finalizing amendments to NESHAP for hazardous waste combustors, which EPA promulgated on October 12, 2005 and SC adopted in June 2007. The amendments in this rule to the October 2005 final rule are designed to clarify several compliance and monitoring provisions and correct several omissions and typographical errors in the final rule. This amendment is to finalize the amendments to facilitate compliance and improve understanding of the first rule requirements.

Rule (3). Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019. This amendment was published in the *Federal Register* at 73 FR 31756 on June 4, 2008. EPA is amending the list of hazardous wastes from non-specific sources (F-wastes) by modifying the scope of the Hazardous Waste F019 listing to exempt wastewater treatment sludges from zinc phosphating when such phosphating is used in the motor vehicle manufacturing process, provided the wastes are not placed outside on the land prior to shipment to a landfill for disposal and the wastes are placed in landfill units that have specified liners. Wastes that meet these conditions will be exempted from the listing from their point of generation and will not be subject to any RCRA Subtitle C management requirements for generation, storage, transport, treatment or disposal. Generators will be required to maintain records on site to show that the waste meets the conditions of the listing.

2. Site Specific Inspection Checklist: A state developed checklist for inspectors was overwritten by a federal NESHAP rule. The State intends to reinsert the checklist requirements into the regulation to assist with compliance inspections. The location of the checklist will be at 270.10(m) since the federal provision was adopted at 270.10(l). This section will not introduce any new requirements, only replace a checklist that had previously been adopted and was overwritten by mistake.

3. The Federal Manifest System (FMS): The Manifest rule was adopted by the state to maintain federal compliance. The rule that was adopted into SC Hazardous Waste Management regulation changes the manifest process from a state initiative to a nationally standardized manifest. This rule was adopted to meet federal compliance and was not optional. The action in this package is to put the federal language into the state regulation verbatim instead of referencing the *Federal Register* in which the final rule was published. This will provide inspectors and the regulated community access to the requirements within the state regulations. No changes to the rule will be made.

DETERMINATION OF COSTS AND BENEFITS:

1. The U.S. EPA promulgated amendments to 40 CFR 260, 261, 264 and 266 during the previous calendar year. Recent federal amendments affect three Final Rules promulgated between July 1, 2007 and June 30, 2008. The adoption of these three rules is optional to states. The Department proposes to amend R.61-79 to adopt these three rules to maintain conformity with federal regulations. The new rules will be less stringent than current state regulation. The determination of costs and benefits for each rule is as follows:

Rule (1). Petroleum refinery-based gasification units are currently in limited use in the US but this rule is an effort to develop positive economic returns. The process will use oil-bearing hazardous secondary materials, which achieves the resource recovery goals of RCRA without jeopardizing human health and the environment. Gasification is a recognized petroleum refining process and ensures a more efficient processing of crude oil. The process enables the petroleum refining industry to maximize the production of fuels and other commodities from crude oil while minimizing the waste products by capturing as much energy from a barrel of oil as possible to maximize production efficiencies at petroleum refineries in an energy constrained world. According to EPA, the savings that could be realized by the implementation of this rule depends on the savings petroleum refineries would experience by diverting oil-bearing hazardous secondary materials to gasification, thus avoiding waste management costs, which is the most significant share of the benefits of the rule. The other two benefits would be the use of these materials as a feedstock in the gasification system and indirect third party costs resulting from the use of virgin fuel. By using oil-bearing hazardous secondary materials, less virgin fuel would be required to produce the same amount of usable fuel. Approximately 342,300 tons of oil bearing hazardous secondary materials are generated by 152 refineries that would qualify for the exclusion annually. Of this quantity, approximately 205,5000 tons are sent offsite for disposal or recycling. The remaining 118,800 tons are processed onsite. The estimate is that between 123,300 and 177,000 tons are likely to be excluded each year from the waste stream, representing approximately 38 to 55 percent of the material eligible for the exclusion. This could yield between \$46.4 million and 48.7 million a year in net social benefits per year according to the EPA. Avoided waste management costs make up the most significant share of the benefits of this rule.

Rule (2). This NESHAP rule is an amendment to the October 2005 final rule and clarifies several compliance and monitoring provisions and corrects several omissions and typographical errors in the final rule. This rule is to facilitate compliance and improve understanding of the rule. The rule being clarified was adopted into the SC Hazardous Waste Management regulation and made final in June 2008. Only two corrections are being made to the SC Hazardous Waste Management regulation. The other corrections all relate to the air regulations.

Rule (3). This rule is proposing an exemption of F019, which is a wastewater sludge, generated from zinc phosphating used in the automobile and light truck assembly process. The exemption is specific to the motor vehicle manufacturing industry that incorporates aluminum into vehicle parts and bodies for the purpose of making them lighter weight and thus more capable of increasing gas mileage. By removing the regulatory controls under RCRA, EPA is facilitating the use of aluminum in motor vehicles. The incorporation of aluminum helps the environment because lighter weight vehicles are capable of increased fuel economy and decreased exhaust air emissions. This exemption will not affect any other wastewater treatment sludges. The wastes cannot be placed outside on the land prior to shipment to a landfill for disposal and the waste must be disposed of in a landfill unit meeting certain liner requirements. The generator is also required to maintain records on site to show that the waste meets the conditions of the listing. Because the sludge would no longer require RCRA Subtitle C management, costs savings would be realized by generators of this waste.

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2. Site Specific Inspection Checklist: This checklist provides facilities a self-inspection/audit tool that is reviewed and approved by the Department, increasing the likelihood of the facility being compliant with the regulations and permit requirements. This process streamlines the inspection process because each facility will know in advance what will be inspected and will make the process more efficient for both the facilities and the inspectors, saving each significant time. Each facility is different and best equipped to know about its facility. When the inspector comes, this checklist serves to save time and resources because the facility has the opportunity in advance to see if the facility meets the criteria set forth on the checklist.

3. The Federal Manifest System (FMS): This rule has already been adopted for federal compliance and the insertion of the verbatim language is for the convenience of inspectors. The SC Hazardous Waste Management Regulation referred to the language as published in the *Federal Register* but inserting the verbatim language saves inspectors time by having all the information in the regulation. This rule was not optional but this amendment should make the verifying of the requirements more efficient and thus, saving departmental resources during an inspection.

UNCERTAINTIES OF ESTIMATES:

No known uncertainties.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

1. The U.S. EPA promulgated amendments to 40 CFR 260, 261, 264 and 266 during the previous calendar year. Recent federal amendments affect three Final Rules promulgated between July 1, 2007 and June 30, 2008. The adoption of these three rules is optional to states. The Department proposes to amend R.61-79 to adopt these three rules to maintain conformity with federal regulations. The new rules will be less stringent than current state regulation. The effect on the environment for the three rules is as follows:

Rule (1). The gasification process provides refineries with the ability to recycle materials generated in the refining of crude oil and provides for the recovery of additional hydrocarbons, which could be considered as an additional process in crude oil refining as a production operation rather than a waste treatment process. This would get the most benefit out of crude oil while maintaining environmental protections. The intent of RCRA would be met in that it would recover benefits of wastewater sludges that would otherwise be waste that has to be treated prior to disposal. There would be less residual waste and more resource recovery from one barrel of oil.

Rule (2). The NESHAP rule is for clarification and corrections to a previously adopted rule. The adoption of this rule would make sure the original rule is written as intended to promote the achievement of NESHAP.

Rule (3) The F019 exemption from wastewater sludge generated in the auto and light truck assembly process would benefit the environment by allowing the use of aluminum in the production of cars and light trucks, making them lighter, more fuel efficient and ultimately promoting cleaner air. There are environmental controls that would prevent the waste from being stored or disposed of in landfills without proper liners and the generators would be required to document their handling of this wastewater treatment sludge.

2. Site Specific Inspection Checklist: This checklist has been a tool for inspectors since 1993 when the state specific requirement was inserted into the SC Hazardous Waste Management Regulation. It was inadvertently removed, taking away a useful tool for inspections that streamlines the inspection process for both the facility and the Department to assure the facility is in compliance with the requirements that have been deemed necessary to protect the environment.

3. The Federal Manifest System (FMS): This is a federally mandated rule that is already in the regulation but the adding of the verbatim language assists inspectors in the field to assure facilities are complying with the Federal Manifest System.

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

1. The U.S. EPA promulgated amendments to 40 CFR 260, 261, 264 and 266 during the previous calendar year. Recent federal amendments affect three Final Rules promulgated between July 1, 2007 and June 30, 2008. The adoption of these three rules is optional to states. The Department proposes to amend R.61-79 to adopt these three rules to maintain conformity with federal regulations. The new rules will be less stringent than current state regulation. The detrimental effect on the environmental and public health if the regulations are not implemented is as follows:

Rule (1). If the gasification rule is not adopted, usable fuel from the wastewater sludges would be treated as waste and disposed of rather than extracting every bit of usable fuel out of a barrel of oil.

Rule (2). If the corrections to this previously adopted NESHAP rule is not adopted, there is room for misunderstanding of the intention of the original rule that is already part of the regulation, thus making a rule designed to protect the environment ineffective.

Rule (3). The exclusion of F019 as a waste treatment sludge makes it easier for the auto industry to use aluminum in the production of lighter weight autos and small trucks.

2. Site Specific Inspection Checklist: If this rule is not adopted, a tool that streamlines the inspection process and has been used since 1993 would no longer be available to inspectors, thus making the inspection process much more difficult and drawn out. The inspector would have to gather the information at the time of the inspection rather than having the facility as a partner in the inspection process.

3. The Federal Manifest System (FMS): This rule has already been adopted as part of the federally mandated Manifest System. If the verbatim language is not adopted, the inspection process is more complicated, leading to inspection oversights.

Statement of Rationale:

The three rules promulgated by EPA during the RCRA 18 time frame of July 2007 to June 2008 are all optional for the states to adopt. The Department has chosen to adopt all three because of the environmental benefits and protections. The gasification rule will potentially maximize the utilization of a barrel of oil in an oil stressed economy. The NESHAP rule is part of a previously adopted rule included for corrections and clarification of the earlier rule. The F019 waste exemption will promote a technology that could benefit the environment by providing a means to the auto industry to make more fuel-efficient vehicles. The auto industry has already expressed support for this rule.

The other two items in this package include the insertion of the specific language for use of the national manifest system, which serves as a useful tool for inspectors and the regulated community. The last item is the reinsertion of the state specific requirement for a checklist, which was overwritten by a federal NESHAP provision. The reinsertion will provide inspectors with a tool for evaluating facilities.

See Statement of Need and Reasonableness above.

Text:

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

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Document No. 4083
DEPARTMENT OF INSURANCE
CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-110 et seq., 38-3-110 and 38-57-10 et seq.

69-40.1. Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities

Preamble:

The South Carolina Department of Insurance proposes to add Regulation 69-40.1, The Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities, to the South Carolina Code of Laws. Regulation 69-40.1 will provide the standards for the use of senior-specific designations by producers in the sales or marketing of life insurance and annuities.

Notice of drafting for the proposed regulation was published in the State Register on May 22, 2009.

Section-by-Section Discussion

The proposed regulation shall include the following sections:

SECTION CITATION:	SECTION TITLE	EXPLANATION
69-40.1, Section 1	Purpose	This section sets forth the purpose of the regulation. The regulation is designed to establish rules and standards for the use of senior-specific designations by producers in the sales and marketing of life insurance and annuities.
69-40.1, Section 2	Scope	This section provides that it applies to licensed producers in this state and applies to any solicitation, sale or purchase of, or advice made, in connection with life insurance or annuity products.
69-40.1, Section 3	Definition	This section provides that the definition of the term “insurance producer” as used in the regulation means a person required to be licensed to sell, solicit or negotiate insurance in this state.
69-40.1, Section 4	Prohibited Uses of Senior-Specific Certifications and Professional Designations	This section sets forth the standards regarding prohibited uses of senior-specific certifications and professional designations and provides that use of such designations so as to mislead a consumer constitutes an unfair and deceptive act under Chapter 57 of Title 38, S.C. Code of Laws. The section also

provides examples of prohibited usage of senior-specific designations or certifications.

69-40.1 Section 5

Effective Date

This section provides the effective date of the regulation.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the S. C. Code, as amended, such hearing will be held on October 20, 2009, at 10:00 A.M. in the Administrative Law Court, Columbia, South Carolina. Persons desiring to make oral comment at the hearing are asked to provide written copies of their presentation for the record. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Written comments, requests for the text of the proposed regulation or any other information, and any requests for a public hearing, should be submitted to Rachel Harper, South Carolina Department of Insurance, P. O. Box 100105, Columbia, S.C. 29202-2105, on or before 5:00PM on August 24, 2009. Copies of the text of the proposed regulation for public notice and comment are available at www.doi.sc.gov.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the state or its political subdivisions.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: The Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities.

Purpose: The proposed regulation will provide standards to producers regarding the use of senior-specific professional designations and certifications when marketing life insurance and annuities.

Legal Authority: 1976 S.C. Code Ann. Sections 1-23-110 et seq., 38-3-110(2) and 38-57-10 et seq.

Plan for Implementation: The proposed regulation will be implemented by the S.C. Department of Insurance.

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

The proposed regulation is needed to provide direction to producers regarding the use of senior-specific professional designations and certifications when selling, soliciting or negotiating insurance in this state. The regulation provides producers with details regarding prohibited uses of senior-specific designations and examples of such prohibited practices.

DETERMINATION OF COSTS AND BENEFITS:

Promulgation of this regulation will not result in additional costs to the state or its political subdivisions. The proposed regulation will benefit our state by setting forth the standards to protect purchasers of life insurance and annuities from misleading and improper use of senior specific designations or titles in the marketing or sales of life insurance and annuities by producers.

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UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulation will have no impact on the environment or public health. The anticipated public benefits of this proposed regulation include additional consumer safeguards to avoid the use of misleading senior-specific designations or certifications by producers.

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

Promulgation of this regulation is crucial to providing guidance and clarification to insurance producers on the use of senior-specific professional designations or certifications in the marketing of life insurance or annuities.

Statement of Rationale:

The regulation is needed to set forth the standards to protect purchasers of life insurance and annuities from misleading and improper use of senior specific designations or titles in the marketing or sales of life insurance and annuities. It makes it an unfair and deceptive act or practice for an insurance producer to use a senior-specific certification or professional designation that indicates or implies in such a way as to mislead a purchaser or prospective purchaser that the insurance producer has special certification or training in advising or servicing seniors in connection with the solicitation, sale or purchase of a life insurance or annuity product. This regulation is based upon the NAIC Model Regulation on the Use of Senior-Specific designations in the sale of life insurance and annuities.

Text:

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

Filed: July 6, 2009 11:30am

Document No. 4084
CLEMSON UNIVERSITY
STATE CROP PEST COMMISSION
 CHAPTER 27

Statutory Authority: 1976 Code Sections 46-9-15, 46-9-40 and 46-9-60

27-78. *Phytophthora ramorum* (*P. ramorum*) Quarantine

Emergency situation:

The South Carolina General Assembly has enacted Regulation 27-78 which designated certain areas as quarantine areas and which imposed certain restrictions on plant materials being shipped into South Carolina from those areas. It has become apparent that in order to safeguard the best interest of South Carolina growers, nurserymen and landowners that the regulated areas would have to be increased. This regulation does this by enlarging the designated regulated areas to any area designated as a regulated area for *Phytophthora ramorum* by a state or federal plant pest regulatory agency.

Text:

27-78. *Phytophthora ramorum* Quarantine

1. Regulated Plant Pest. *Phytophthora ramorum*.

2. Regulated Area. Any area of any state, territory or country under state or federal quarantine for *Phytophthora ramorum*, or any area of any state, territory, or country designated as a regulated area for *Phytophthora ramorum* by the cognizant state or federal plant pest regulatory agency.

3. Regulated Articles:

- a.. All host and associated plants for *Phytophthora ramorum*.
- b. Any other product, article, or means of conveyance of any character whatsoever, not covered by the above, when it is determined by a quarantine officer of a state or federal plant pest regulatory agency that they present a hazard of spreading *Phytophthora ramorum*.
- c. A complete listing of host material may be found at http://www.aphis.usda.gov/plant_health/plant_pest_info/pram/downloads/pdf_files/usdaprlst.pdf

4. Movement of Regulated Articles.

- a. A state Phytosanitary certificate is required for movement of any regulated article from any regulated or quarantined area into South Carolina.
- b. Prior notification of movement of *Phytophthora ramorum* host and associated plant material is required. The shipper shall send by mail, facsimile or e-mail a copy of the State Phytosanitary Certificate to: Clemson University Department of Plant Industry, 511 Westinghouse Road, Pendleton, SC 29670; facsimile 864-646-2178; email nedward@clemson.edu. The Certificate must list the type and quantity of plants, the address of shipper, the name and address of recipient, the date and results of last *P. ramorum* nursery test, and contact number(s) of the shipper and recipient. Notice must arrive at least 24 hours prior to scheduled shipment arrival. Commodities shipped in violation of the requirements or with positive test results may be returned to their point of origin or destroyed at the expense of the owner.