

## **SOUTH CAROLINA STATE REGISTER DISCLAIMER**

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# SOUTH CAROLINA STATE REGISTER

PUBLISHED BY  
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of the  
GENERAL ASSEMBLY

ASHLEY HARWELL-BEACH, DIRECTOR  
DEIRDRE BREVARD SMITH, EDITOR

P.O. BOX 11489  
COLUMBIA, SC 29211  
TELEPHONE (803) 212-4500

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

# ***SOUTH CAROLINA STATE REGISTER***

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

## **STYLE AND FORMAT**

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

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

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

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

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

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

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

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

## **2019 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 | 1/11 | 2/8  | 3/8  | 4/12 | 5/10 | 6/14 | 7/12 | 8/9  | 9/13  | 10/11 | 11/8  | 12/13 |
| Publishing Date     | 1/25 | 2/22 | 3/22 | 4/26 | 5/24 | 6/28 | 7/26 | 8/23 | 9/27  | 10/25 | 11/22 | 12/27 |

## **REPRODUCING OFFICIAL DOCUMENTS**

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## **PUBLIC INSPECTION OF DOCUMENTS**

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## **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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South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>

| DOC.<br>NO.                         | RAT.<br>NO. | FINAL<br>ISSUE | SUBJECT   | EXP.<br>DATE | AGENCY  |
|-------------------------------------|-------------|----------------|---|--------------|---|
| 4848                                |             |                | Contractor's Licensing Board                    | 1/19/20      | LLR-Contractor's Licensing Board                  |
| 4852                                |             |                | Board of Long Term Health Care Administrators   | 2/03/20      | LLR-Board of Long Term Health Care Administrators |
| 4873                                |             |                | Air Pollution Control Regulations and Standards | 3/17/20      | Department of Health and Envir Control            |
| 4876                                |             |                | Electronic Transmissions                        | 4/26/20      | Secretary of State                                |
| 4880                                |             |                | Control of Anthrax                              | 5/13/20      | Department of Health and Envir Control            |
| 4879                                |             |                | E-Filing and E-Service                          | 5/13/20      | Public Service Commission                         |
| <b>Committee Request Withdrawal</b> |             |                |   |              |   |
| 4843                                |             |                | Board of Physical Therapy Examiners             | Tolled       | LLR   |
| 4861                                |             |                | Consolidated Procurement Code                   | Tolled       | State Fiscal Accountability Authority             |



## 2 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

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.php>

| <b>DOC.<br/>No.</b>                 | <b>SUBJECT</b>                                  | <b>HOUSE COMMITTEE</b>            | <b>SENATE COMMITTEE</b>           |
|-------------------------------------|---|-----------------------------------|-----------------------------------|
| 4848                                | Contractor's Licensing Board                    | Regulations and Admin. Procedures | Labor, Commerce and Industry      |
| 4852                                | Board of Long Term Health Care Administrators   | Regulations and Admin. Procedures | Medical Affairs                   |
| 4873                                | Air Pollution Control Regulations and Standards | Regulations and Admin. Procedures | Agriculture and Natural Resources |
| 4876                                | Electronic Transmissions                        | Regulations and Admin. Procedures | Judiciary                         |
| 4880                                | Control of Anthrax                              |                                   |                                   |
| 4879                                | E-Filing and E-Service                          |                                   |                                   |
| <b>Committee Request Withdrawal</b> |   |                                   |                                   |
| 4843                                | Board of Physical Therapy Examiners             | Regulations and Admin. Procedures | Medical Affairs                   |
| 4861                                | Consolidated Procurement Code                   | Regulations and Admin. Procedures | Finance                           |

**Executive Order No. 2019-36**

**WHEREAS**, on April 17, 2018, the undersigned issued Executive Order No. 2018-15, suspending William D. Lewis from the office of Sheriff of Greenville County, pursuant to article VI, section 8 of the South Carolina Constitution, following his indictment by a Grand Jury convened in Greenville County for Misconduct in Office and Obstruction of Justice; and

**WHEREAS**, in accordance with article VI, section 8 of the South Carolina Constitution, Executive Order No. 2018-15 stated that the undersigned's suspension of William D. Lewis was effective immediately and "until such time as he shall be formally acquitted or convicted"; and

**WHEREAS**, pursuant to section 23-11-40(C) of the South Carolina Code of Laws, as amended, the undersigned previously appointed Johnny Mack Brown, of Travelers Rest, South Carolina, "to serve as Sheriff of Greenville County until the suspended sheriff is acquitted, or the indictment is otherwise disposed of, or until a sheriff is elected and qualifies in the next general election for county sheriffs, whichever event occurs first"; and

**WHEREAS**, a Grand Jury convened in Greenville County subsequently returned several superseding indictments charging William D. Lewis with additional offenses, including one or more counts of Misconduct of a Public Officer, in violation of section 8-1-80 of the South Carolina Code of Laws, as amended; Misconduct in Office; Obstruction of Justice; and Perjury; and

**WHEREAS**, on October 24, 2019, William D. Lewis was convicted of one count of Misconduct of a Public Officer, in violation of section 8-1-80 of the South Carolina Code of Laws, and public records reflect that one or more additional charges may still be pending at present; and

**WHEREAS**, article VI, section 8 of the South Carolina Constitution provides, in relevant part, that upon conviction of an "officer of the State or its political subdivisions . . . who has been indicted by a grand jury for a crime involving moral turpitude . . . the office shall be declared vacant and the vacancy filled as may be provided by law"; and

**WHEREAS**, as charged, Misconduct of a Public Officer, in violation of section 8-1-80 of the South Carolina Code of Laws, is "a crime involving moral turpitude" for purposes of article VI, section 8 of the South Carolina Constitution; and

**WHEREAS**, in addition to the foregoing, section 8-1-80 of the South Carolina Code of Laws requires that "[t]he presiding judge before whom any public officer convicted under this section is tried shall order a certified copy of the indictment to be immediately transmitted to the Governor who must, upon receipt of the indictment, by executive order declare the office to be vacant" and the resulting vacancy "must be filled as in the case of the death or resignation of the officer"; and

**WHEREAS**, in accordance with article VI, section 8 of the South Carolina Constitution and section 8-1-80 of the South Carolina Code of Laws, the office of Sheriff of Greenville County shall be declared vacant and the vacancy shall be filled as provided by law; and

**WHEREAS**, with regard to county sheriffs, section 23-11-40(B) of the South Carolina Code of Laws provides, in relevant part, that "[i]f any vacancy occurs in the office more than one year prior to the next general election for county sheriffs, the Governor shall appoint some suitable person . . . until a special election is held to elect a sheriff to hold the office until a sheriff is elected and qualifies in the next general election for county sheriffs"; and

**WHEREAS**, the next general election for the office of Sheriff of Greenville County is scheduled to be held on or about November 3, 2020; and

#### **4 EXECUTIVE ORDERS**

**WHEREAS**, Johnny Mack Brown, of Travelers Rest, South Carolina, is a fit and proper person to continue to serve as Sheriff of Greenville County “until a special election is held to elect a sheriff to hold the office until a sheriff is elected and qualifies in the next general election for county sheriffs,” pursuant to section 23-11-40(B) of the South Carolina Code of Laws.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby declare vacant the office of Sheriff of Greenville County and appoint Johnny Mack Brown to serve as Sheriff of Greenville County “until a special election is held to elect a sheriff to hold the office until a sheriff is elected and qualifies in the next general election for county sheriffs,” in accordance with section 23-11-40(B) of the South Carolina Code of Laws. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 25th DAY OF OCTOBER, 2019.**

**HENRY MCMASTER  
Governor**

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

## NOTICE OF GENERAL PUBLIC INTEREST

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication on **November 22, 2019** 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 Arnisha Keitt, Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201 at (803) 545-3495.

**Affecting Charleston County****TN Reliable Nursing South Carolina**

Establishment of a new Home Health facility at a total project cost of \$26,679.00.

**Bon Secours-St. Francis Xavier Hospital, Inc. d/b/a Bon Secours St. Francis Xavier Hospital**

Purchase of a Mazor X robotic guidance system at a total project cost of \$1,477,801.

**Affecting Greenville County****Ascent Recovery Solutions, LLC**

Construction for the establishment of an opioid treatment program at a total project cost of \$696,457.

**St. Francis Hospital, Inc. d/b/a St. Francis Millennium Cancer Center**

Construction for the addition of 2,665 sf and the purchase of a Varian linear accelerator with a 5,000 treatment capacity for a total of two linear accelerators at a total project cost of \$8,853,649.

**St. Francis Hospital, Inc. d/b/a St. Francis Millennium Cancer Center**

Construction for the addition of 1,220 sf and the purchase of PET CT unit at a total project cost of \$3,894,898.

**Affecting Horry County****McLeod Loris Seacoast Hospital d/b/a McLeod Outpatient Surgery Center Carolina Forest**

Construction of a new multispecialty Ambulatory Surgical Facility with 4 Operating Rooms and 2 Endoscopy Suites at a total project cost of \$15,306,507.

**Affecting Richland County****SCENT ASC Opportunity Fund, PA (SCENT-ASC) d/b/a SCENT Surgical Center**

Construction of a 22,148-sf single specialty ambulatory surgery center specializing in ENT procedures with two operating rooms at total project cost of \$10,428,069.

**Affecting Spartanburg County****Spartanburg Rehabilitation Institute, Inc. d/b/a Spartanburg Rehabilitation Institute**

Construction for the addition of 15,100-sf and the addition of 20 Rehabilitation beds (for a total of 60 Rehabilitation beds) at a total project cost of \$6,254,842.00.

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from **November 22, 2019**. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Arnisha Keitt, Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-3495.

## 6 NOTICES

### Affecting Berkeley County

#### **East Cooper Community Hospital, Inc. d/b/a East Cooper Medical Center d/b/a East Cooper Medical Center Freestanding Emergency Department**

Construction for the addition of 5,146 sf and the addition of 17 RTF beds (for a total of 81 RTF beds) at a total project cost of \$5,238,320.

#### **Roper St. Francis Hospital-Berkeley, Inc. d/b/a Roper St. Francis Hospital-Berkeley**

Purchase of a da Vinci Xi Robotic Surgical System at a total project cost of \$2,275,452.

### Affecting Charleston County

#### **Bon Secours-St. Francis Xavier Hospital, Inc. d/b/a Bon Secours St. Francis Xavier Hospital**

Purchase of a Mazor X robotic guidance system at a total project cost of \$1,477,801.

### Affecting Chester County

#### **BAYADA Home Health Care, Inc., d/b/a BAYADA Home Health Care d/b/a BAYADA Home Health Care – Chester**

Establishment of Home Health Services to serve Chester County at a total project cost of \$50,000.

### Affecting Dorchester County

#### **ABS LINC SC, Inc. d/b/a ABS LINC SC, Inc., d/b/a Palmetto Pines Behavioral Health**

Addition of 5 Residential Treatment beds for a total of 69 Residential Treatment beds at a total project cost of \$25,349.39.

### Affecting Lexington County

#### **Three Rivers Residential Treatment-Midlands Campus, Inc. d/b/a Three Rivers Midlands Residential Treatment**

Construction for the addition of 5,146 sf and the addition of 17 RTF beds (for a total of 81 RTF beds) at a total project cost of \$5,238,320.

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

### NOTICE OF GENERAL PUBLIC INTEREST

The South Carolina Health Planning Committee has scheduled regional public hearings regarding the Draft 2020 South Carolina Health Plan. These hearings will take place at the following times and locations:

#### Upstate

Wednesday, November 20, 2019, 10:00 a.m., Greenville Health Department, 200 University Ridge, Greenville, SC 29601;

#### Midlands

Monday, November 18, 2019, 10:00 a.m., Department of Health and Environmental Control Headquarters, People's Auditorium, 2600 Bull Street, Columbia, SC 29201;

#### Pee Dee

Thursday, November 21, 2019, 10:00 a.m., Florence Health Department, 145 East Cheves Street, Florence, SC 29506;

#### Lowcountry

Tuesday, November 19, 2019, 10:00 a.m., Charleston County Library, 68 Calhoun Street, Charleston, SC 29401

The South Carolina Health Planning Committee invites public comment on the Draft 2020 South Carolina Health Plan from November 1, 2019 until 5:00 PM on November 30, 2019. Comments may be submitted in writing via e-mail to [coninfo@dhec.sc.gov](mailto:coninfo@dhec.sc.gov) or mail to Certificate of Need Program, 2600 Bull Street, Columbia, SC 29201. Alternatively, comments may be presented in person at one of the regional hearings noted above. Changes to the 2020 South Carolina Health Plan will include, but not be limited to, changes to narrative and numerical need methodologies, service areas for certain health care services, population projections, as well as scrivener's errors and similar corrections.

The Draft 2020 South Carolina Health Plan shall be accessible beginning November 1, 2019 via the following link:

<http://www.scdhec.gov/Health/FHPP/HealthFacilityRegulationsLicensing/CertificateOfNeed/>.

For further information, (803) 545-4200.

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

### NOTICE OF GENERAL PUBLIC INTEREST

#### Bureau of Air Quality Fumigation Guidance

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

The South Carolina Department of Health and Environmental Control, Bureau of Air Quality (Department) has updated the following permit guidance for fumigation activities. This guidance will be maintained by the Department and periodically published in the *South Carolina State Register*. Additionally, this guidance will be maintained on the DHEC website at: <https://www.scdhec.gov/environment/air-quality/guidance-emission-calculators-air-permits>.

If you have questions or comments, please contact James C. Robinson, P.E., Air Permitting Division, at (803) 898-4123.

This guidance will be used by the Department to determine the following: what type of permit action is required, how to process permits/exemptions for fumigation activities that emit hazardous air pollutants (HAPs), toxic air pollutants (TAPs), and volatile organic compounds (VOCs), and how state and federal air regulations apply such as SC Regulation 61-62.5, Standards 7 (PSD) and 8 (Toxic Air Pollutants), Clean Air Act Section 112(g), and 40 CFR 70 (Title V).

Fumigation is a pest control method that completely fills an area with gaseous chemicals, or fumigants, to eradicate pests. It is utilized to control pests in buildings (structural fumigation), soil, grain, produce, and is also used to prepare goods for import or export to prevent transfer of exotic organisms. For import/export goods, fumigation is typically performed in a sealed enclosure to retain the fumigant for a sufficient length of time to control the target pest. At the conclusion of the treatment process, the sealed enclosure is opened, releasing fugitive emissions to the atmosphere. There are several widely used fumigants, including the following 9 compounds: methyl bromide (HAP, TAP), sulfuryl fluoride, phosphine (HAP, TAP, 112(r)), 1,3-dichloropropene (HAP, TAP, VOC), chloropicrin, methyl isocyanate (HAP, TAP, VOC, 112(r)), hydrogen cyanide (HAP, TAP, VOC, 112(r)), formaldehyde (HAP, TAP, VOC, 112(r)), and idoform.

Before initiating fumigation activities on-site, the owner/operator of the site must either meet one of the preapproved exempt scenarios below, or submit site and emissions information, as described below, to the Department. The need for permit(s) will be made by the Department on a case-by-case basis. This determination will take into consideration, but will not be limited to, the nature and amount of the pollutants, location, proximity to residences and commercial establishments, etc.

## 8 NOTICES

### Permitting of Fumigation Activities

Case-by-case determinations have been completed and an exemption from the permitting process has been approved for the following scenarios:

- Agricultural facilities that have seasonal operations such as peach growers. Agricultural facilities under this section do not include wood product sources/processes.
- Facilities that perform fumigation as an ancillary activity up to several times a year to control pest infestation, as a preventative maintenance measure to keep facility assets in an acceptable condition.

If the fumigation activity does not fall into one of the two scenarios above, a case-by case determination is required to determine if the process is subject to air quality permitting requirements. The following information and supporting documentation must be submitted in writing to the Department for review:

- A description of the fumigation process to include, as a minimum;
  - the product(s) being fumigated (including size and quantity);
  - a list of all fumigants used (include a safety data sheet for each fumigant);
  - for each fumigant listed, provide the following information:
    - the method of application (including containment system);
    - the fumigation application rate and quantity;
    - the frequency of fumigation (times/day, days/week, weeks/year);
    - duration of fumigation (hours/day, days/week, weeks/year);
    - the minimum amount/length of time product(s) are sealed after fumigant is applied;
    - the minimum amount/length of time products are allowed to aerate;
  - the typical work week (hours/day, days/week, weeks/year);
  - a map/drawing of the property showing the location of the treatment process; and
  - any other information necessary to determine if a permit is needed.
- Fumigation emission calculations, including fugitives. Emission calculations need to assume 100% of the fumigant used is emitted to the atmosphere.
- Demonstration of compliance with SC Regulation 61-62.5, Standard 8 for all TAP emissions.

Construction and operation of fumigation activities is restricted until written approval is received from the Department.

The Department will review all submitted information, consider permitting options, and upon completion of the review process, provide the owner/operator with the results of the case-by-case determination.

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

### NOTICE OF GENERAL PUBLIC INTEREST

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 December 23, 2019 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 company has applied for certification as Underground Storage Tank Site Rehabilitation Contractor:

**Class I**

**Moran Environmental Recovery, LLC.**  
**Attn: Brennan Wallace**  
**1044 Pierside Street**  
**Charleston, SC 29405**



## 10 PROPOSED REGULATIONS

Document No. 4933

**CLEMSON UNIVERSITY**  
**CHAPTER 27**

Statutory Authority: 1976 Code Section 59-119-320

27-3000 through 27-3006. Parking and Traffic Regulations.

### **Preamble:**

Clemson University proposes to update and add language regarding its regulations and management of parking, traffic and public safety on the Clemson University campus to increase efficiencies and current information related to permitted parking on campus, prevention of crime, reduction of risk, and the general prevention of harm to students, staff, faculty, and visitors.

### Section-by-Section Discussion

27-3000.1. General Information

Add new text in section.

27-3000.2. Applicability

Add new text.

27-3000.3. Definitions

Add new text with definitions to be used throughout this section.

27-3000.4. Official Traffic Control Devices.

Add new text related to traffic control devices.

27-3001.1. Parking and Transportation Services Department

Add new text related to clarification of administration and appeals related to parking and transportation citations issued under these regulations.

27-3001.2. Motor Vehicles Requires to Display a Parking Permit

Add new text explaining and clarifying parking permit requirements.

27-3001.3. Accessible Parking for Persons With Disabilities

Add new text explaining documentation, review and approval of permits for parking spaces to be used by persons with disabilities.

27-3001.5. Parking Permit Fees

Add new text explaining how parking permit fees will be determined.

27-3001.7. Loading Zones

Add new text clarifying how permits may be obtained and used for use in loading zones on campus.

27-3002.1. General

Add new text related to use of physical and virtual decals and permits for parking in designated areas on campus. Removal of outdated text related to marking and symbols used to identify vehicles.

27-3002.3. Employee/Student Parking Areas.

Remove text related to outdated time and location for designated employee and student parking areas. Add new text which provides official location and time restrictions to be posted online.

27-3002.4. Visitor Parking Areas

Add new text providing clarification regarding use and designation of a timed “visitor” parking space on campus.

27-3002.5. Service Vehicle Parking Areas.

Add new text.

27-3002.6. Accessible parking for Individuals with Disabilities

Add new text clarifying van accessible spaces.

27-3002.7. Timed Parking Areas

Remove outdated text related to time restrictions. Add new text that time restrictions shall be posted online for certain parking areas.

27-3002.8. Motorcycle/Moped/Golf Cart-Parking Areas.

Add next text to include mopeds and golf cards to have specific, permitted parking areas on campus.

27-3003. PEDESTRIANS & OPERATION OF MOTOR VEHICLES.

Add new text to include Pedestrians.

27-3003.5. Pedestrians

Add new text to include sidewalks.

27-3003.6. Obstructions of Vehicular or Pedestrian Traffic

Add new text.

27-3003.7. Obedience to Traffic Laws, Devices & Signals

Add new text.

27-3004.2. Notice of Violations.

Add new text regarding timing of appeal from parking violation, as well as new text related to use of Uniform Traffic Ticket.

27-3004.3. Schedule of Parking Penalties.

Delete outdated text related to specific parking penalties and add new text that parking offense fees shall be posted online after approval by the University President or his designee.

27-3004.4. Payment of Parking Penalties.

Add new text that online payment is allowable.

27-3004.5. Moving and Other Violations Under This Article.

Add next text clarifying citations and violations shall be misdemeanors punishable by fine or jail.

27-3004.6. Delinquent Violations.

Delete text and replace with new text that clarifies that violations must be paid within 15 days and requests for appeals must be initiated 10 calendar days after citation.

27-3005.3. Parking Appeals

Add new text clarifying appeals to be received within 10 days of citation.

27.3005.4. Appointment of Boards and Committees.

Add new text clarifying who shall oversee the Parking Advisory Committee.

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27-3005.5. Non-Parking Offense Appeals  
Add new text.

27-3007. PUBLIC SAFETY ON CLEMSON UNIVERSITY PROPERTY  
Add new text.

27-3007.1. Disorderly Conduct  
Add new text.

27-3007.2. Assault & Battery  
Add new text.

27-3007.3. Malicious Damage  
Add new text.

27-3007.4. Interfering with Officer in Performance of Duty  
Add new text.

27-3007.5. Removal of Item(s) from Solid Waster Container and/or Vicinity; and/or Scavenging and/or Scattering Item(s) from or in the Vicinity of a Solid Waste Container  
Add new text

27-3007.6. Possession of Open Container or Consumption of Alcoholic Beverages; Unlawful Possession  
Add new text.

27-3007.7. Possession of Drug Paraphernalia  
Add new text.

27-3007.8. Forfeiture of Drug Paraphernalia  
Add new text.

27-3007.9. Dogs at Large  
Add new text.

27-3007.10. Fundraising, Selling, Panhandling, Vending, Soliciting  
Add new text.

A Notice of Drafting regarding the subject matter of the proposed regulation was published in the *State Register* on September 27, 2019.

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

All written comments and requests for a public hearing should be sent to Greg Mullen, Chief of Police, CUPD, Clemson University, 124 Ravenel Center Pl, Seneca SC 29678. A hearing will be held at 124 Ravenel Center Pl, Seneca, SC 29678 starting at 10:00 am on January 2, 2020, unless no written comments and requests are made by December 31, 2019, at which time the hearing on January 2, 2020 will be cancelled.

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

There will be no increased cost to the State or its political subdivisions by implementing these regulation amendments.

**Statement of Need and Reasonableness:**

**DESCRIPTION OF REGULATION:**

Purpose: The proposed regulations will update outdated language and procedures related to parking permits and allow for more efficiencies and up to date communication of information directly related to parking areas, permits and restrictions for students, visitors, contractors, vendors, etc. In addition the updated language related to certain traffic and pedestrian regulations will allow the continuation of and improvement of public safety and order on campus.

Legal Authority: S.C. Code Ann. Section 59-119-320.

Plan for Implementation: All approved changes and updated practices will be made available online (websites and social media channels), through Media Relations, as well as handouts and brochure materials that may be made available within the offices of Parking and Transportation Services, and the Clemson University Policy Department. In addition, the University Policy Department may utilize a 30-day warning period for those violations that do not involve personal injury or property damage that are newly enacted.

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

The proposed regulation changes are responsive to new technologies that will allow the University to provide additional permitting processes and options for students, employees and visitors on campus (related to parking permits). In addition, as trends in various modes of transportation (both motorized and non-motorized) continue, the University needs to be able to communicate directly with users and provide up to date information related to permitting, traffic control/regulation and public safety to those using the vehicles and/or otherwise coming into contact with them (i.e. pedestrians) and these regulations provide both Parking and Transportation and the University Policy Department the ability to quickly respond to and manage these variations.

**DETERMINATION OF COSTS AND BENEFITS:**

The proposed regulation changes will not result in any additional costs to persons on campus. These changes should, however, provide the benefit of providing greater efficiencies for persons seeking information and/or registering for parking permits, because the changes will more accurately set forth current and future parking, traffic and public safety trends on campus.

**UNCERTAINTIES OF ESTIMATES:**

None.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

None.

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

None.

**Statement of Rationale:**

The proposed regulation changes will create a structure where the University has the opportunity to continue its efforts to solicit voluntary compliance to maintain public safety and order on the campus, while also providing

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the means to take enforcement efforts if education and compliance does not eliminate the concern. The changes also reflect the changes in technologies, communication and expectations of students, employees and visitors on campus as it relates to traffic control and permitted parking on the campus.

### **Text:**

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

Document No. 4943  
**DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS**  
CHAPTER 88  
Statutory Authority: 1976 Code Section 44-20-220

Article 7. Appeal Procedures. (New)

### **Preamble:**

The Department of Disabilities and Special Needs proposes to add Article 7 to provide the procedure for the appeals of adverse decisions within the scope of state funded services provided by the Department of Disabilities and Special Needs.

### Section-by-Section Discussion

88-705. Definitions.

- A. New.
- B. New.
- C. New.

88-710. Appeals.

- A. New.

88-715. Appeal Procedures.

- A. New.
- B. New.

A Notice of Drafting was published in the *State Register* February 22, 2019.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the Department of Disabilities and Special Needs Commission, 3440 Harden Street Extension, Columbia, South Carolina, 29240 on January 3, 2020 at 9:00 a.m. Written comments may be directed to Mary Poole, State Director, Department of Disabilities and Special Needs, 3440 Harden Street Extension, Post Office Box 4706, Columbia, South Carolina, 29240, no later than 5:00 p.m., December 30, 2019. If a qualifying request pursuant to Section 1-23-110(A)(3) is not received, the hearing will be cancelled.

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

There will be no increased cost to the State or its political subdivisions.

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

Description of Regulation:

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**Purpose:** This article is added to ensure that citizens who apply for eligibility for state funded services through the Department of Disabilities and Special Needs, or are denied eligibility or services, have services reduced, suspended, or terminated are aware of appeal procedures for adverse decisions in the scope of state funded services.

**Legal Authority:** 1976 Code Section 44-20-220.

**Plan for Implementation:** The added regulations will take effect upon approval by the General Assembly and upon publication in the State Register. The Department will notify applicants for services of the regulation by posting it on the agency's web site.

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

The proposed regulations are needed to ensure that all applicants for services are aware of the process and their rights.

### DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions.

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning these regulations.

### EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment of this state. The public health of the State will be enhanced by public awareness of Department procedures.

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

There will be no detrimental effects on the environment and public health if the regulations are not implemented in this State.

### **Statement of Rationale:**

These regulations are added to clarify and state Department procedures.

### **Text:**

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

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Document No. 4944  
**DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS**  
CHAPTER 88  
Statutory Authority: 1976 Code Section 44-20-220

Article 4. Day Programs for Persons with Intellectual Disability.

**Preamble:**

The Department of Disabilities and Special Needs proposes to amend Article 4 to provide the procedure for the administration of day programs provided by the Department of Disabilities and Special Needs.

Section-by-Section Discussion

88-405. Definitions.

Technical changes to definitions and removing obsolete references.

88-410. Personnel.

- A. Updating to current law and procedures.
- B. Updating to current law and procedures.
- C. Technical changes.
- D. Updating to current law and procedures.

88-415. Facility.

- A. No change.
- B. Updating to current law and procedures.
- C. Updating to current law and procedures.
- D. Technical changes.
- E. No change.
- F. Technical changes.
- G. No Change.
- H. Updating to current law and procedures.
- I. Technical changes.

88-420. Transportation.

- A. Updating to current law and procedures.

88-425. Medical Care.

- A. Updating to current law and procedures.
- B. Updating to current law and procedures.
- C. Updating to current law and procedures.
- D. Updating to current law and procedures.

88-430. Evaluations.

- A. Updating to current law and procedures.
- B. Deleted.
- C. Deleted.

88-435. Program.

- A. Updating to current law and procedures.
- B. Updating to current law and procedures and technical changes.
- C. Deleted.

88-440. Records.

- A. Updating to current law and procedures.
- B. Updating to current law and procedures.
- C. Updating to current law and procedures.
- D. Updating to current law and procedures.

A Notice of Drafting was published in the *State Register* February 22, 2019.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the Department of Disabilities and Special Needs Commission, 3440 Harden Street Extension, Columbia, South Carolina, 29240 on January 3, 2020 at 9:00 a.m. Written comments may be directed to Mary Poole, State Director, Department of Disabilities and Special Needs, 3440 Harden Street Extension, Post Office Box 4706, Columbia, South Carolina, 29240, no later than 5:00 p.m., December 30, 2019. If a qualifying request pursuant to Section 1-23-110(A)(3) is not received, the hearing will be cancelled.

**Preliminary Fiscal Impact Statement:**

There will be no increased cost to the State or its political subdivisions.

**Statement of Need and Reasonableness:**

Description of Regulation:

Purpose: This article is amended to ensure that requirements for day programs for persons eligible for services through the Department of Disabilities and Special Needs are clearly defined and clarified.

Legal Authority: 1976 Code Section 44-20-220.

Plan for Implementation: The amended regulations will take effect upon approval by the General Assembly and upon publication in the *State Register*. The Department will notify applicants for services of the regulation by posting it on the agency's web site.

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

The proposed regulations are needed to ensure that all day programs are operated under a common set of regulations.

**DETERMINATION OF COSTS AND BENEFITS:**

There will be no increased cost to the State or its political subdivisions.

**UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning these regulations.

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

These regulations will have no effect on the environment of this state. The public health of the State will be enhanced by public awareness of Department procedures.



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

There will be no detrimental effects on the environment and public health if the regulations are not implemented in this State.

### Statement of Rationale :

These regulations are added to clarify and state Department procedures.

### Text:

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

Document No. 4945

### DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS

#### CHAPTER 88

Statutory Authority: 1976 Code Section 44-20-220

Article 2. Definitions.

### Preamble:

The Department of Disabilities and Special Needs proposes to amend Article 2 to define the functions and roles relating to the Department of Disabilities and Special Needs.

#### Section-by-Section Discussion

88-210. Definitions.

- A. Definition changed.
- B. No change.
- C. Definition changed.
- D. Definition changed.
- E. Definition changed.
- F. No change.
- G. No change.
- H. No change.
- I. No change.
- J. Definition changed.
- K. Delete; next definition moved up.
- L. New definition; former L changed to K.
- M. Delete; new definition added.
- N. Delete; new definition added.
- O. New definition added.
- P. New definition added.
- Q. New definition added.
- R. New definition added.
- S. New definition added.
- T. New definition added.
- U. New definition added.

A Notice of Drafting was published in the *State Register* February 22, 2019.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the Department of Disabilities and Special Needs Commission, 3440 Harden Street Extension, Columbia, South Carolina, 29240 on January 3, 2020 at 9:00 a.m. Written comments may be directed to Mary Poole, State Director, Department of Disabilities and Special Needs, 3440 Harden Street Extension, Post Office Box 4706, Columbia, South Carolina, 29240, no later than 5:00 p.m., December 30, 2019. If a qualifying request pursuant to Section 1-23-110(A)(3) is not received, the hearing will be cancelled.

**Preliminary Fiscal Impact Statement:**

There will be no increased cost to the State or its political subdivisions.

**Statement of Need and Reasonableness:**

Description of Regulation:

Purpose: This article is amended to ensure clarity of roles referred to in the code of regulations Chapter 88.

Legal Authority: 1976 Code Section 44-20-220.

Plan for Implementation: The added regulations will take effect upon approval by the General Assembly and upon publication in the State Register. The Department will notify applicants for services of the regulation by posting it on the agency's web site.

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

The proposed regulations are needed to ensure that all applicants for services are aware of the process and their rights.

**DETERMINATION OF COSTS AND BENEFITS:**

There will be no increased cost to the State or its political subdivisions.

**UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning these regulations.

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

These regulations will have no effect on the environment of this state. The public health of the State will be enhanced by public awareness of Department procedures.

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

There will be no detrimental effects on the environment and public health if the regulations are not implemented in this State.

**Statement of Rationale:**

These regulations are amended to clarify and state Department roles and procedures.

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### Text:

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

Document No. 4946  
**DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS**  
CHAPTER 88  
Statutory Authority: 1976 Code Section 44-20-220

Article 5. Eligibility Determination. (New)

### Preamble:

The Department of Disabilities and Special Needs proposes to add Article 5 to provide the procedure establishing eligibility within the scope of state funded services provided by the Department of Disabilities and Special Needs.

### Section-by-Section Discussion

88-505. Criteria for Department Eligibility.

- A. Intellectual Disability. New.
- B. Related Disability. New.
- C. High Risk Infant/High Risk Child. New.
- D. Autism Spectrum Disorder. New.
- E. Head and Spinal Cord Injury and Similar Disability. New.
- F. Circumstances. New.

A Notice of Drafting was published in the *State Register* February 22, 2019.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the Department of Disabilities and Special Needs Commission, 3440 Harden Street Extension, Columbia, South Carolina, 29240 on January 3, 2020 at 9:00 a.m. Written comments may be directed to Mary Poole, State Director, Department of Disabilities and Special Needs, 3440 Harden Street Extension, Post Office Box 4706, Columbia, South Carolina, 29240, no later than 5:00 p.m., December 30, 2019. If a qualifying request pursuant to Section 1-23-110(A)(3) is not received, the hearing will be cancelled.

### Preliminary Fiscal Impact Statement:

There will be no increased cost to the State or its political subdivisions.

### Statement of Need and Reasonableness:

Description of Regulation:

Purpose: This article is added to provide the procedure establishing eligibility within the scope of state funded services provided by the Department of Disabilities and Special Needs.

Legal Authority: 1976 Code Section 44-20-220.

Plan for Implementation: The added regulations will take effect upon approval by the General Assembly and upon publication in the State Register. The Department will notify applicants for services of the regulation by posting it on the agency's web site.

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

The proposed regulations are needed to ensure that all applicants for services are aware of the process and their rights.

**DETERMINATION OF COSTS AND BENEFITS:**

There will be no increased cost to the State or its political subdivisions.

**UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning these regulations.

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

These regulations will have no effect on the environment of this state. The public health of the State will be enhanced by public awareness of Department procedures.

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

There will be no detrimental effects on the environment and public health if the regulations are not implemented in this State.

**Statement of Rationale:**

These regulations are added to clarify and state Department procedures.

**Text:**

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

Document No. 4948

**DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS**

**CHAPTER 88**

Statutory Authority: 1976 Code Section 44-20-220

Article 1. License Requirement for Facilities and Programs.

**Preamble:**

The Department of Disabilities and Special Needs proposes to amend Article 1, Regulations 88-105, 88-110, 88-120, and 88-130, to define the license requirements for facilities and programs issued by the Department of Disabilities and Special Needs.

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### Section-by-Section Discussion

#### 88-105. Scope.

- A. Adding disabilities covered. Updating name of Department.
- C. Delete section.
- D. Former D changed to C.; New D added.
- E. Change DMR to DDSN.

#### 88-110. Licenses Issued.

- D. No change.
  - (1) Delete.
    - (a) Delete.
    - (b) Delete.
  - (2) Delete.
  - (3) Renumbered as (1).
  - (4) Renumbered as (2).
  - (5) Delete.
  - (6) Renumbered as (3).
- E. Guidance from DDSN only.

#### 88-120. Applications for License.

- A. Addresses changed.
- B. Forms available from Department.

#### 88-130. Waivers.

- A. Terminology changed.
- B. Terminology changed.
- C. Terminology changed.
- D. Terminology changed.

A Notice of Drafting was published in the *State Register* February 22, 2019

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the Department of Disabilities and Special Needs Commission, 3440 Harden Street Extension, Columbia, South Carolina, 29240 on January 3, 2020 at 9:00 a.m. Written comments may be directed to Mary Poole, State Director, Department of Disabilities and Special Needs, 3440 Harden Street Extension, Post Office Box 4706, Columbia, South Carolina, 29240, no later than 5:00 p.m., December 30, 2019. If a qualifying request pursuant to Section 1-23-110(A)(3) is not received, the hearing will be cancelled.

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

There will be no increased cost to the State or its political subdivisions.

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

Description of Regulation:

Purpose: This article is amended to ensure clarity of roles referred to in the code of regulations Chapter 88.

Legal Authority: 1976 Code Section 44-20-220.

Plan for Implementation: The amended regulations will take effect upon approval by the General Assembly and upon publication in the State Register. The Department will notify applicants for services of the regulation by posting it on the agency's web site.

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

The proposed regulations are needed to ensure that all applicants for services are aware of the process and their rights.

**DETERMINATION OF COSTS AND BENEFITS:**

There will be no increased cost to the State or its political subdivisions.

**UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning these regulations.

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

These regulations will have no effect on the environment of this state. The public health of the State will be enhanced by public awareness of Department procedures.

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

There will be no detrimental effects on the environment and public health if the regulations are not implemented in this State.

**Statement of Rationale:**

These regulations are added to clarify and state Department roles and procedures.

**Text:**

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

Document No. 4947

**DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS**

**CHAPTER 88**

Statutory Authority: 1976 Code Section 44-20-220

Article 6. License Requirements for Community-Based Housing for Adults. (New)

**Preamble:**

The Department of Disabilities and Special Needs proposes to add Article 6 to provide the procedure for licensing of Community based homes for adults by the Department of Disabilities and Special Needs.

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### Section-by-Section Discussion

88-605. Definitions. New.

- A. New.
- B. New.
- C. New.
- D. New.

88-610. Application Process.

- A. New.
- B. New.

88-615. Annual Licensing Reviews.

New.

88-620. Denial or Revocation of License. New.

- A. New.
- B. New.
- C. New.
- D. New.

A Notice of Drafting was published in the *State Register* February 22, 2019.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the Department of Disabilities and Special Needs Commission, 3440 Harden Street Extension, Columbia, South Carolina, 29240 on January 3, 2020 at 9:00 a.m. Written comments may be directed to Mary Poole, State Director, Department of Disabilities and Special Needs, 3440 Harden Street Extension, Post Office Box 4706, Columbia, South Carolina, 29240, no later than 5:00 p.m., December 30, 2019. If a qualifying request pursuant to Section 1-23-110(A)(3) is not received, the hearing will be cancelled.

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

There will be no increased cost to the State or its political subdivisions.

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

Description of Regulation:

Purpose: This article is added to ensure that requirements for licensing of community based housing for adults through the Department of Disabilities and Special Needs are clearly defined and clarified.

Legal Authority: 1976 Code Section 44-20-220.

Plan for Implementation: The added regulations will take effect upon approval by the General Assembly and upon publication in the State Register. The Department will notify applicants for services of the regulation by posting it on the agency's web site.

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

The proposed regulations are needed to ensure that all day programs are operated under a common set of regulations.

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

There will be no increased cost to the State or its political subdivisions.  
**UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning these regulations.

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

These regulations will have no effect on the environment of this state. The public health of the State will be enhanced by public awareness of Department procedures.

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

There will be no detrimental effects on the environment and public health if the regulations are not implemented in this State.

**Statement of Rationale:**

These regulations are added to clarify and state Department procedures.

**Text:**

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

Document No. 4949  
**DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS**  
**CHAPTER 88**  
Statutory Authority: 1976 Code Section 44-20-220

Article 3. Recreational Camps for Persons with Intellectual Disability.

**Preamble:**

The Department of Disabilities and Special Needs proposes to amend Article 3 by repealing the Article as it is obsolete in its entirety.

Section-by-Section Discussion

Article 3. Repealed in its entirety.

A Notice of Drafting was published in the *State Register* February 22, 2019.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the Department of Disabilities and Special Needs Commission, 3440 Harden Street Extension, Columbia, South Carolina, 29240 on January 3, 2020 at 9:00 a.m. Written comments may be directed to Mary Poole, State Director, Department of Disabilities and Special Needs, 3440 Harden Street Extension, Post Office Box 4706, Columbia, South Carolina, 29240, no later than 5:00 p.m., December 30, 2019. If a qualifying request pursuant to Section 1-23-110(A)(3) is not received, the hearing will be cancelled.



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

There will be no increased cost to the State or its political subdivisions.

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

Description of Regulation:

Purpose: This article is repealed to delete obsolete programs referred to in the code of regulations Chapter 88.

Legal Authority: 1976 Code Section 44-20-220.

Plan for Implementation: The amended regulations will take effect upon approval by the General Assembly and upon publication in the State Register. The Department will notify applicants for services of the regulation by posting it on the agency's web site.

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

The proposed regulations are needed to ensure that all applicants for services are aware of the process and their rights.

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

There will be no increased cost to the State or its political subdivisions.

### **UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning these regulations.

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

These regulations will have no effect on the environment of this state. The public health of the State will be enhanced by public awareness of Department procedures.

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

There will be no detrimental effects on the environment and public health if the regulations are not repealed in this State.

### **Statement of Rationale:**

These regulations are repealed to clarify and state Department roles and procedures.

### **Text:**

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

Document No. 4950  
**DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS**  
CHAPTER 88  
Statutory Authority: 1976 Code Section 44-20-220

Article 8. Research Involving Persons Eligible for Services. (New)

**Preamble:**

The Department of Disabilities and Special Needs proposes to add Article 8 to provide for establishing procedures for research involving persons eligible for services through the Department of Disabilities and Special Needs.

Section-by-Section Discussion

88-805. Definitions.

- A. New.
- B. New.
- C. New.
- D. New.

88-810. Review and Approval of Research Proposals.

- A. New.

88-815. Protection of Rights and Welfare of Research Participants.

- A. New.
- B. New.
- C. New.
- D. New.
- E. New.
- F. New.
- G. New.
- H. New.

88-820. Publications.

- A. New.
- B. New.
- C. New.
- D. New.

A Notice of Drafting was published in the *State Register* February 22, 2019.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the Department of Disabilities and Special Needs Commission, 3440 Harden Street Extension, Columbia, South Carolina, 29240 on January 3, 2020 at 9:00 a.m. Written comments may be directed to Mary Poole, State Director, Department of Disabilities and Special Needs, 3440 Harden Street Extension, Post Office Box 4706, Columbia, South Carolina, 29240, no later than 5:00 p.m., December 30, 2019. If a qualifying request pursuant to Section 1-23-110(A)(3) is not received, the hearing will be cancelled.

**Preliminary Fiscal Impact Statement:**

There will be no increased cost to the State or its political subdivisions.

## **28 PROPOSED REGULATIONS**

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

Description of Regulation:

Purpose: This article is added to provide the procedure establishing procedures for research involving persons eligible for services through the Department of Disabilities and Special Needs

Legal Authority: 1976 Code Section 44-20-220.

Plan for Implementation: The added regulations will take effect upon approval by the General Assembly and upon publication in the State Register. The Department will notify applicants for services of the regulation by posting it on the agency's web site.

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

The proposed regulations are needed to ensure that all applicants for services are aware of the process and their rights.

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

There will be no increased cost to the State or its political subdivisions.

### **UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning these regulations.

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

These regulations will have no effect on the environment of this state. The public health of the State will be enhanced by public awareness of Department procedures.

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

There will be no detrimental effects on the environment and public health if the regulations are not implemented in this State.

### **Statement of Rationale:**

These regulations are added to clarify and state Department procedures.

### **Text:**

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

Document No. 4951  
**DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS**  
CHAPTER 88  
Statutory Authority: 1976 Code Section 44-20-220

Article 9. Unclassified Facilities and Programs.

**Preamble:**

The Department of Disabilities and Special Needs proposes to amend Article 9 to define the procedures relating to Unclassified Facilities and Programs under the Department of Disabilities and Special Needs.

Section-by-Section Discussion

88-910. Unclassified Facilities and Programs.

No changes.

88-915. Application for License of an Unclassified Program.

A. Technical changes.

88-920. Determination by the Department.

A. Technical changes.

B. Technical changes.

A Notice of Drafting was published in the *State Register* February 22, 2019.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the Department of Disabilities and Special Needs Commission, 3440 Harden Street Extension, Columbia, South Carolina, 29240 on January 3, 2020 at 9:00 a.m. Written comments may be directed to Mary Poole, State Director, Department of Disabilities and Special Needs, 3440 Harden Street Extension, Post Office Box 4706, Columbia, South Carolina, 29240, no later than 5:00 p.m., December 30, 2019. If a qualifying request pursuant to Section 1-23-110(A)(3) is not received, the hearing will be cancelled.

**Preliminary Fiscal Impact Statement:**

There will be no increased cost to the State or its political subdivisions.

**Statement of Need and Reasonableness:**

Description of Regulation:

Purpose: This article is added to ensure clarity of roles referred to in the code of regulations Chapter 88.

Legal Authority: 1976 Code Section 44-20-220.

Plan for Implementation: The amended regulations will take effect upon approval by the General Assembly and upon publication in the *State Register*. The Department will notify applicants for services of the regulation by posting it on the agency's web site.

### **30 PROPOSED REGULATIONS**

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

The proposed regulations are needed to ensure that all applicants for services are aware of the process and their rights.

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

There will be no increased cost to the State or its political subdivisions.

#### **UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning these regulations.

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

These regulations will have no effect on the environment of this state. The public health of the State will be enhanced by public awareness of Department procedures.

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

There will be no detrimental effects on the environment and public health if the regulations are not implemented in this State.

#### **Statement of Rationale :**

These regulations are added to clarify and state Department roles and procedures.

#### **Text:**

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

Document No. 4934  
**STATE BOARD OF FINANCIAL INSTITUTIONS**  
**CONSUMER FINANCE DIVISION**  
CHAPTER 15  
Statutory Authority: 1976 Code Sections 34-41-10 et seq.,  
particularly Section 34-41-130

15-65. Check Cashing.

#### **Preamble:**

The South Carolina State Board of Financial Institutions - Consumer Finance Division seeks to amend Regulation 15-65 to clarify items concerning the licensure process.

1998 Act 433, Section 2 has licensing requirements that need to be clarified.

Section 34-41-130 allows the South Carolina State Board of Financial Institutions to promulgate regulations necessary carry out the purposes of this chapter, to provide for the protection of the public, and to assist licensees in interpreting and complying with this chapter.

The proposed regulation will require legislative review.

Notice of Drafting for the proposed regulation was published in the *State Register* on October 25, 2019. Comments were solicited for consideration in drafting the proposed regulation.

**Section-by-Section Discussion**

15-65(A). This section defines terms not previously defined in the Act.

15-65(B). This section clarifies timeframes regarding the expiration and renewal of Licenses and Branch Location Certificates.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the South Carolina State Board of Financial Institutions, 1205 Pendleton Street, Suite 300, Columbia, SC 29201 on December 27, 2019 at 1:00 p.m. Written comments may be directed to Ronald R. Bodvake, Commissioner, South Carolina State Board of Financial Institutions – Consumer Finance Division, 1205 Pendleton Street, Suite 306, Columbia, SC 29201 no later than 5:00 p.m., December 23, 2019. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be cancelled.

**Preliminary Fiscal Impact Statement:**

The Consumer Finance Division estimates that the additional costs incurred by the State in complying with the proposed regulation will be approximately \$0.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION: Check Cashing.

Purpose: In its present form, the Act requires certain actions without giving specific procedures or guidance as to how those actions should be completed. The proposed Regulation 15-65 would clarify the process by which the Consumer Finance Division requires certain actions to be completed.

Legal Authority: 1976 Code Sections 34-41-10 et seq., particularly Section 34-41-130.

Plan for Implementation: The amended regulation will take effect upon approval by the General Assembly and upon publication in the State Register. The Consumer Finance Division will notify licensees of the amended regulation and post the amended regulation on the agency's website.

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

The proposed regulation is necessary in order to ensure compliance with state statutes concerning check cashing services in South Carolina.

**DETERMINATION OF COSTS AND BENEFITS:**

Licensing fees assessed are at levels intended to offset any costs of administering the regulation.

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### UNCERTAINTIES OF ESTIMATES:

Estimates are based on current market conditions. However, since any costs should be covered by the licensing fees set in S.C. Code Section 34-41-10 et seq., there should be no financial impact to the State or its political subdivisions.

### EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

This regulation will have no effect on the environment or public health of this State.

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

There will be no detrimental effects on the environment or public health if the regulation is not implemented in this State.

### Statement of Rationale:

1998 Act 433, section 2, specifically provides for the South Carolina State Board of Financial Institutions to promulgate regulations necessary to effectuate the purposes of the Act. Regulation 15-65 is being added to clarify licensing requirements imposed by the Act.

### Text:

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

Document No. 4954  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
**CHAPTER 61**

Statutory Authority: 1976 Code Sections 44-7-260 et seq.

61-93. Standards for Licensing Facilities that Treat Individuals for Psychoactive Substance Abuse or Dependence.

### Preamble:

The Department of Health and Environmental Control (“Department”) proposes amending R.61-93 to update provisions in accordance with current practices and standards. The proposed amendments incorporate and revise provisions relating to statutory mandates, update terminology to conform to the terminology widely used and understood within the provider community, and revise requirements for incident reporting, staffing and training requirements, medication management, patient care and services, infection control, meal service, emergency procedures, design and construction, fire and life safety, and other miscellaneous requirements for licensure. Proposed revisions also include changing the name of the regulation and facility type to “Facility for Chemically Dependent or Addicted Persons.” The Department proposes this change to parallel the statutory term for this facility type. The facility type may also be referred to as “Substance Use Disorder Facilities” based on current terminology within the provider community. Additional proposed revisions include those for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation.

The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

A Notice of Drafting was published in the March 22, 2019, *South Carolina State Register*.

Section-by-Section Discussion of Proposed Amendments:

The title of this regulation was amended to comply with current statutory requirements.

Statutory authority for this regulation was added under the title of the regulation and before the table of contents.

The table of contents was updated to reflect the changes in the section numbers within the regulation.

**SECTION 100 – DEFINITIONS AND LICENSURE**

**101. Definitions.**

101 recodified to maintain alphabetical organization.

101.A added definition for Abuse to create consistency with other regulations.

101.B amended definition for Administering Medication to create consistency with other regulations.

101.C amended definition for Administrator to create consistency with other regulations.

101.D amended definition for Adult to create consistency with other regulations.

Former 101.D definition for Advanced Practice Registered Nurse removed due to 101.H being amended and recodified.

101.F definition for Annual amended to create consistency with other regulations.

Former 101.G definition for Architect removed due to being unnecessary.

101.G definition for Assessment amended to create consistency with other regulations.

101.H definition for Authorized Healthcare Provider amended to create consistency with other regulations.

101.I definition for Blood Assay for Mycobacterium tuberculosis added to create consistency with other regulations.

101.J definition for Chemical Dependency added because it supports the facility as defined per LLR statute.

Former 101.J definition for Client removed due to updating language to Patient.

Former 101.K definition for Client Room removed due to updating language to Patient.

101.M definition for Contact Investigation added to create consistency with other regulations.

101.N definition for Controlled Substance added for current terminology and consistency with other regulations.

101.O definition for Counselor amended to create consistency with other regulations and current terminology.

Former 101.O definition for DSS removed due to not being necessary for this regulation.



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Former 101.Q definition for Delivery of Medications removed to use current terminology and create consistency with other regulations.

Former 101.R definition for Detoxification removed due to current terminology and per public comment.

Former 101.S definition for Detoxification Facility removed due to current terminology. The new term is Withdrawal Management Facility.

101.R definition for Direct Care Staff amended to reflect current industry practices and terminology.

101.S definition for Discharge amended to create consistency with other regulations.

Former 101.W definition for Dispensing Medication removed due to not being utilized in the regulation.

101.T definition for Elopement added to clarify what Elopement is in the Reporting section of the regulation per public comment.

Former 101.X definition for Existing Facility removed due to being defined within the regulation.

101.U definition for Exploitation added to create consistency with other regulations.

101.V definition for Facility for Chemically Dependent or Addicted Persons amended to be in line with current LLR statute and provider community terminology.

101.X definition for Health Assessment amended for clarity.

101.Y definition for Individual Plan of Care added due to current terminology per public comment. This definition replaces the formerly used term Individual Treatment Plan and creates consistency with other regulations.

Former 101.BB definition for Initial License removed due to being redundant and definition moved into regulation language.

101.AA definition for Inspection amended to create consistency with other regulations.

Former 101.FF definition for Individualized Treatment Plan removed due to term changed to Individual Plan of Care.

101.CC definition for Interdisciplinary Team added for clarity.

101.DD definition for Investigation amended to create consistency with other regulations.

101.EE definition for Legend Medication added to create consistency with other regulations and upon recommendation from the Bureau of Drug Control.

101.FF definition for License updated to create consistency within this regulation and to reflect current terminology.

Former 101.HH definition for LAAM removed due to public comment related to current terminology.

101.FF definition for License amended to reflect current terminology.

101.GG definition for Licensed Nurse amended to create consistency with other regulations and South Carolina LLR and removed the different levels of nurse licensing.

101.HH definition for Licensee amended to create consistency with other regulations and to reflect updated terminology.

101.II definition for Medical Withdrawal Program added from definition in former 101.S.1 to reflect current terminology per public comments.

101.JJ definition for Medication added to create consistency with other regulations.

101.KK definition for Medication Unit added for clarity and to reflect updated provider terminology and practices.

Former 101.NN definition for Parents with Children Facilities removed due to current terminology. This is now referred to as Patient Facilities providing services for mothers with children.

Former 101.OO definition for Narcotic Treatment Program changed to be in line with more common, current terminology that better describes this type of program and matches the language used in the SC Health Plan. This is now referred to as an Opioid Treatment Program.

101.NN definition for Neglect added to create consistency with other regulations.

Former 101.PP definition for New Facility removed to being defined within the regulation.

101.OO definition for Non-Legend Medications added create consistency with other regulations.

101.PP definition for Opioid Treatment Program added due to current terminology and per public comment. This was formerly referred to as an NTP.

101.QQ definition for Outpatient Facility amended due to current terminology.

101.RR definition for Outpatient Services amended to reflect a current definition.

101.SS definition for Patient added to reflect current terminology, replaces Client.

Former 101.SS definition for Peak Hours removed due to not being necessary for this regulation.

Former 101.TT definition for Pharmacist removed since the definition is already defined by LLR.

101.TT definition for Physical Examination amended due to current terminology.

Former 101.VV definition for Physician removed as this term is already defined and included in the definition for Authorized Health Care Provider.

Former 101.WW definition for Physician's Assistant removed as this term is already defined and in common use.

101.UU definition for Primary Counselor amended to reflect current terminology.

Former 101.YY definition for Psychoactive Substance Abuse or Dependence removed due to current terminology.

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Former 101.ZZ definition for Psychoactive Substance Abuse or Dependence Treatment Facility removed due to current terminology.

Former 101.BBB definition for Ramp removed due to redundancy.

Former 101.CCC definition for Related/Relative removed due to being unnecessary.

101.WW definition for Repeat Violation amended to create consistency in regulation.

101.XX definition for Residential Facility added to reflect current terminology.

101.YY definition for Residential Treatment Program amended to reflect current terminology.

101.AAA definition for Satellite amended to reflect current industry practices and to remove regulation from definitions.

101.BBB definition for Self-Administration added to create consistency with other regulations.

101.CCC definition for Social Withdrawal Management amended from former 101.S.2 to reflect current terminology.

101.EEE definition for Substance Use Disorder added to reflect current provider community terminology.

101.FFF definition for Suspension of License amended to create consistency with other regulations.

Former 101.JJJ definition for Treatment removed due to the term not being needed.

101.GGG definition for Tuberculosis Risk Assessment added to create consistency with other regulations.

Former 101.KKK definition for Twenty-Four Hour Facility removed due to current terminology. The new term used is Residential Facility.

101.HHH definition for Volunteer added to create consistency with other regulations

101.III definition for Withdrawal Management added due to current terminology.

### **102. References.**

Section 102 removed due to redundancy.

### **102. License Requirements. (Former 103 License Requirements)**

Section 102 recodified from 103 and amended to create consistency with other regulations.

102.A amended to reflect current terminology and create consistency with other regulations.

102.B amended to reflect current terminology and create consistency with other regulations.

102.C amended to reflect current terminology, create consistency with other regulations, and add clarity.

102.D added to meet the needs of changing industry practices and to provide clarity on the regulation of Satellite Facilities.

101.E (formerly 103.D) amended to reflect current terminology and create consistency with other regulations.

102.F (formerly 103.E) amended to reflect current terminology.

102.EXCEPTION recodified to Section 1402 to create consistency with other regulations.

102.G. (formerly 103.F) amended to reflect current terminology and create consistency with other regulations.

102.H (formerly 103.G) amended to create consistency with other regulations and reflect current terminology.

102.I (formerly 103.H) amended for clarity.

102.J (formerly 103.I) amended to create consistency with other regulations.

Former 103.J recodified to 102.L and amended for clarity and to create consistency with other regulations.

102.K added to create consistency with other regulations.

102.L recodified from former 103.J.

102.M added to create consistency with other regulations.

102.N (formerly 103.K) amended to include language clarifying that past fees are to be paid before renewal of license is approved.

102.O (formerly 103.L) amended to create consistency with other regulations.

Former 103.M removed due to being unnecessary.

Former 103. N removed due to creation of 102.Q.

102.P added to create consistency with other regulations.

102.Q added to included language regarding variances to the regulation.

**SECTION 200 – ENFORCEMENT OF REGULATIONS** (former SECTION 200 ENFORCING REGULATIONS)

**201. General.**

**202. Inspections and Investigations.**

Section 202 amended to create consistency with other regulations.

**203. Consultations.**

**SECTION 300 – ENFORCEMENT ACTIONS**

Section 300 amended to create consistency with other regulations.

**301. General.**

**302. Violation Classifications.**

## **38 PROPOSED REGULATIONS**

### **SECTION 400 – POLICIES AND PROCEDURES**

Section 400 amended to create consistency with other regulations, current terminology.

### **SECTION 500 – STAFF AND TRAINING (formerly SECTION 500 STAFF)**

#### **501. General (II).**

Section 501.A amended to current terminology language and to create consistency with other regulations.

Former Section 501.B recodified to Section 502 to create consistency with other regulations.

Former Section 501.C recodified to Sections 503, 504, and 505.

Former Section 501.D recodified to 506.A.

Former Section 501.E recodified to 1002.E.

Section 501.B (formerly 501.F) amended to current terminology and for clarity.

Section 501.C (formerly 501.G) amended to use current terminology and create consistency with other regulations.

Section 501.D added to create consistency with other regulations.

#### **502. Administrator (II).**

Section 502 recodified from former Section 501.B to create consistency with other regulations.

#### **503. Staffing for Residential Treatment Programs.**

Section 503 recodified from former Section 2602 to create clarity as to which regulations are required for Residential Facilities providing Residential Treatment Programs per public comment request. Also amended to reduce redundancy. Section 503 recodified content amended to remove “designated client” per public comment. Recodified content also amended to clarify daytime and evening hours and per public comment.

#### **504. Staffing for Withdrawal Management Programs.**

Section 504 recodified from former Section 2703 to create clarity as to which regulations are required for Residential Facilities providing Withdrawal Management per public comment request. Also amended to reduce redundancy and to create consistency with other regulations.

#### **505. Staffing for Opioid Treatment Programs (II).**

Section 505 recodified from Section 2816 to create clarity as to which regulations are required for Outpatient Facilities providing Opioid Treatment Program services per public comment request.

Section 505.C recodified content amended to create consistency with other regulations. Also amended regarding nurse staffing requirements per public comment.

#### **506. Inservice Training (II).**

Section 506 recodified from 502.

Section 506.A added from R.61-3.605 to create consistency with other regulations.

Section 506.B (formerly 502.A) amended to reflect current terminology and amended to create consistency with other regulations and per public comment.

Section 506.C (formerly 502.B) amended to reflect current terminology and create consistency with other regulations. Added content from 2816.E.

Section 506.D recodified from 2816 and amended for clarity and to meet current industry practices.

Section 506.E (formerly 506.C) amended to create consistency with other regulations.

**507. Health Status (I).**

Section 507 recodified from 503 and amended to use current terminology and create consistency with other regulations.

**508. Counselors (II).**

Section 508 recodified from 504.

Section 508 amended to reflect current terminology and consistency with other regulations and per public comment.

Section 508.A amended to create clarity. Partial content moved to 508.B.

Section 508.B added to create clarity.

Section 508.B.3 amended per public comment requesting current terminology and practices.

Section 508.F added to create consistency with other regulations.

**SECTION 600 – REPORTING**

**601. Accidents and Incidents (II).**

Section 601 amended to create consistency with other regulations.

Section 601.A amended to create clarity per public comment.

Section 601.B amended to create two sections: Section 601.B and proposed 601.C to create clarity per public comment. Also amended to remove unnecessary items from the list. Also amended to remove Fire from the list as it is addressed in Section 602.

Section 601.B.4 added to include “Overdose Reversal (naloxone)” as an accident/incident per public comment.

Section 601.C added content removed from 601.B for clarity.

**602. Fire and Disasters (II)**

Section 602 amended to reflect current terminology, create consistency with other regulations, and for clarity.

## **40 PROPOSED REGULATIONS**

### **603. Communicable Diseases and Animal Bites (I).**

Section 603 amended to create consistency with other regulations and for clarity.

### **604. Administrator Change.**

Section 604 amended to create consistency with other regulations and for clarity.

### **605. Joint Annual Report.**

Section 605 amended to reflect current terminology and consistency with other regulations.

### **606. Accounting of Controlled Substances (I).**

Section 606 amended to reflect current terminology and create consistency with other regulations.

### **Former 607. Emergency Placements.**

Former Section 607 recodified to 1402.B

### **607. Facility Closure. (Former 608)**

Section 607.A amended to create consistency with other regulations.

Section 607.B amended to create two sections: Section 607.B and proposed section 607.C for clarity. Also amended to create consistency with other regulations.

### **608. Zero Census.**

## **SECTION 700 – PATIENT RECORDS (Formerly SECTION 700 CLIENT RECORDS)**

Section 700 amended to reflect current terminology.

### **701. Content (II).**

Section 701.A amended to reflect that only Residential Facilities are required to maintain records of diet per public comment and to reflect current terminology. Also amended to reflect the use of electronic media per public comment.

Section 701.B amended to set policies and procedures regarding the use of electronic and optical means of record-keeping to be consistent with other regulations.

Section 701.C (formerly 701.B) amended to reflect current terminology, create consistency with other regulations, and for clarity.

Former Sections 701.C and 701.D recodified to proposed Sections 706 and 707.

Former Section 701 EXCEPTION removed due to proposed Sections 706 and 707.

Former Section 701.E removed and added content to proposed Section 706.

Former Section 701.F removed and recodified to proposed Section 701.C.8.

Section 701.D added to create consistency with other regulations and reflect current terminology and procedures.

**Former 702 Authentication of Signatures** removed due to redundancy with 701.D.

**702. Screening (I).**

Section 702.A and 702.B added to create consistency with other regulations and to require documentation of all screening.

Section 702.C recodified from former Section 2701.A and amended to be consistent with other regulations.

Section 702.D recodified from former Section 2702.A and amended to be consistent with other regulations.

Section 702.E recodified from former Section 2807.B and amended to reflect current terminology per public comment and current industry practice.

**703. Assessments for Residential Treatment Programs (II).**

Section 703 recodified from former Section 2604 and amended per public comment on days required to complete and file the written assessment.

**704. Assessment for Withdrawal Management Programs (II).**

Section 704 recodified from former Section 2705.

**705. Bio-Psycho-Social Assessment Opioid Treatment Program (II).**

Section 705 recodified from former Section 2811, amended to reflect the current terminology “Bio-Psycho-Social Assessment” per public comment and for clarity. Section 705 also amended content from Section 2811 to reflect a change in the number of days in which an assessment must be completed per public comment.

**706. Individual Plan of Care (II).**

Section 706 added from former Section 701.C and 701.D, and amended to reflect current terminology to “Individual Plan of Care” replacing “ITP.”

Section 706.A added from former Section 2605.

Section 706.B added from former Sections 2706 and 2702.B, and amended to reflect current terminology and consistency with other regulations.

**707. Individual Plan of Care for Opioid Treatment Program (II).**

Section 707 added from former Section 2812 and amended to reflect that the IPOC shall be completed within thirty (30) calendar days of the assessment per public comment.

**708. Record Maintenance.**

Section 708 recodified from 703 and amended to create consistency with other regulations.

Former Section 703.D removed due to being unnecessary.

Section 708.F recodified from former Section 703.H.



## **42 PROPOSED REGULATIONS**

708.H removed due to creation of Section 703.F.

708.H added content from 708. EXCEPTION.

### **SECTION 800 – ADMISSION (I)**

Section 800 added for organizational consistency with other regulations. (Former SECTION 800 CLIENT CARE/TREATMENT/SERVICES recodified to SECTION 900).

#### **801. General.**

Section 801 recodify from former Section 801.

#### **802. Residential Facilities.**

Section 802 recodified from former Section 2603 and 2704, and amended for clarity, consistency with other regulations, and to reflect current terminology.

#### **803. Opioid Treatment Program.**

Section 803 recodified from former Section 2807 and amended to reflect current terminology per public comment.

### **SECTION 900 – PATIENT CARE, TREATMENT, AND SERVICES (Former SECTION 800 CLIENT CARE/TREATMENT/SERVICES)**

Section 900 recodified from former Section 800 to be in line with the organizational structure of the proposed Section 900.

#### **901. General.**

Former 801.A recodified to proposed Section 801.

Section 901.A (formerly 801.B) amended to create consistency with other regulations and for clarity.

Former Section 801.C recodified to Proposed Section 902A.-C.

Section 901.C (formerly 801.E) amended for clarity.

Former 801.F recodified to 902.D.

Section 901.D (formerly 801.G) amended to create consistency with other regulations.

Former 801.H recodified to 1001.B.

#### **902. Residential Facilities (II).**

Section 902.A-C recodified from former Section 801.C and amended for clarity.

Section 902.D recodified from former Section 801.F.

Section 902.E recodified from former Section 2601.B and amended to remove unnecessary regulation.

Section 902.F.1 recodified from former Section 2701.

Section 902.F.2 recodified from former Section 2702.

Section 902.F.3 recodified from former Section 2701.E

**903. Opioid Treatment Program.**

Section 903.A recodified from former Section 2802 and amended Section 903.A.1 to remove time regulations per public comment. Also amended Section 903.A.3 to remove “appropriate to his/her needs” to “as based on the assessment” per public comment and Section 903.A.3.a to include Hepatitis per public comment.

Section 903.B recodified from former Section 2803 and amended 903.B.1 to reflect current terminology per public comment. Also amended 903.B.2 for clarity due to public comment. Amended 903.B.3 for clarity due to public comment.

Section 903.C recodified from former Section 2804 and amend to reflect current terminology. Amended Section 903.C.2 for clarity due to public comment. Section 903.C.4 amended to reflect current terminology per public comment. Also amended to specify documentation regulations per public comment.

**904. Substance Use Testing for Opioid Treatment Programs (II).**

Section 904 recodified from former Section 2809 and amended to clarify former Sections 2809.F and 2809.G’s dependent relationship per public comment. Also amended to allow for other types of testing per public comment.

Section 904.E amended to provide clarity.

**905. Orientation for Patients Admitted to an Opioid Treatment Program.**

Section 905 recodified from former section 2810 and amended 905.J for clarity and current terminology.

Section 905.J amended to include other medicine types per public comment.

**906. Transportation.**

Section 906 amended to reflect current terminology.

**907. Safety Precautions and Restraints (I).**

Section 907.A amended to create consistency with other regulations and to reflect current terminology.

Former Sections 907.B and 907.C removed due to being repetitious of content in 907.A.

Former Section 907.D recodified to 907.C.

Sections 907.B, 907.C, 907.D recodified from former 907.B-D and amended to create consistency with other regulations.

**908. Services for Minors (II). (Formerly 804 Treatment of Minors)**

Former Section 804.A recodified to proposed Section 802.B.1 and amended according to current industry practice.

#### **44 PROPOSED REGULATIONS**

Section 908.A-C amended to reflect updated terminology and industry practice.

Section 908. Exception recodified to Section 803.B and amended according to current industry practice.

908.D added to reflect current industry practices.

#### **909. Referral Services.**

Section 909 recodified from previous Section 805 and amended to reflect current terminology and for clarity.

#### **SECTION 1000 – PATIENT RIGHTS AND ASSURANCES (Former SECTION 900 CLIENT RIGHTS AND ASSURANCES)**

##### **1001. Informed Consent (II).**

Section 1001 amended to create consistency with other regulations.

Section 1001.A.4 recodified from former Section 2810.J.

Section 1001.B recodified from former Section 801.H.

##### **1002. Patient Rights (II).**

Section 1002 amended to reflect current terminology and to create consistency with other regulations.

Section 1002.A.5 amended for clarity per public comment.

Section 1002.B amended for clarity per public comment.

Section 1002.E added from former Section 501.E.

##### **1003. Discharge and Transfer.**

Section 1003.A amended to reflect current terminology.

Section 1003.B removed to create consistency with other regulations.

Section 1003.C (formerly 1003.B) amended for clarity.

Section 1003.C added from former Section 2817.D.

#### **SECTION 1100 – PATIENT PHYSICAL EXAMINATION (Former SECTION 1000 CLIENT PHYSICAL EXAMINATION)**

Section 1100.A amended to reflect current terminology, consistency with other regulations, add clarity, remove redundancy, and to incorporate the Exception. Section 1100.A further amended to provide clarity that the regulation in this section only applies to Residential Facilities, per public comment.

Section 1100.A.5 added to create consistency with other regulations and for clarity.

Former Section 1000.B. removed to create consistency with other regulations.

Former Section 1000.C recodified to 1703.

Section 1100.B (formerly 1001.D) amended for clarity.

Section 1100.C added from former Section 2808 and amended to reflect current provider terminology and practices.

Section 1100.C.3 added per public comment to allow for situations in which blood draws are unsuccessful.

Section 1100.D (Formerly 1000.E) amended to reflect current terminology.

**SECTION 1200 – MEDICATION MANAGEMENT (Former SECTION 1100 MEDICATION MANAGEMENT)**

**1201. General (I).**

Section 1201 amended to reflect current terminology and consistency with other regulations.

**1202. Medication Orders (I).**

Section 1202 amended to reflect current terminology.

Section 1202.C recodified from Former Section 2817.B.

**1203. Administering Medication (I).**

Former Sections 1103.A-B removed due to creation of proposed 1203.A.

Section 1203.A recodified from former Section 1103.A. and 1103.B, and amended to create consistency with other regulations.

Section 1203.B added to create consistency with other regulations.

Section 1203.C recodified from former Section 2817.

Section 1203.D (formerly 1103.C) amended per public comment. Also amended to reflect current terminology and to partially incorporate Exception per public comment.

Section 1203.F recodified from former Section 1106.F and amended per public comment.

**1204. Pharmacy Services (I).**

Section 1204 amended to reflect current terminology and create consistency with other regulations.

Section 1204.B amended for clarity and to create consistency with other regulations.

**1205. Medication Containers (I).**

Section 1205.A amended to reflect current terminology and create consistency with other regulations.

Section 1205.B amended to reflect current terminology and to include documentation and signature by a pharmacist per public comment.

Section 1205.C amended to remove redundancy.

## **46 PROPOSED REGULATIONS**

Section 1205.D amended for clarity and to remove unnecessary regulation per public comment.

### **1206. Medication Storage (I).**

Section 1206 amended to reflect current terminology, create consistency with other regulations, and to remove unnecessary regulation.

Section 1206.A amended for clarity due to public comment.

Former Section 1106.D removed in order to create a new section addressing the content.

Section 1206.D created using content from former Section 1106.D and amended to include stocks of naloxone for emergency overdose with or without a specific prescription per public comment. Also amended to include regulation for stocking non-Patient specific Controlled Substances.

Section 1206.G amended to include rescue inhalers or EpiPens per public comment.

### **1207. Disposition of Medications (I).**

Section 1207 amended to reflect current terminology.

### **1208. Opioid Treatment Program Take-home Medication (II).**

Section 1208.A recodified from former Section 2817.C.1 and amended to strike “in oral liquid form” per public comment.

Section 1208.B-I recodified from former Section 2818 and amended to reflect current terminology per public comment.

### **1209. Opioid Treatment Program Guest-Dosing (II).**

Section 1209 recodified from former Section 2819 and amended to reflect current terminology and create consistency with other regulations.

Section 1209.D added to allow possible guest dosing during natural disasters or emergencies per public comment.

### **1210. Security of Medications (I).**

Section 1210 recodified from former Section 2820.

### **1300 – MEAL SERVICE (II)**

Section 1300 added title to change the former Section 1200 to 1300 to create consistency with other regulations and to current terminology.

### **1301. General (II).**

Section 1301 (formerly section 1201) amended to reflect current terminology and create consistency with other regulations. Also amended to clarify which facilities are required to provide food services per public comment.

**1302. Food and Food Storage (II).**

Section 1302 (formerly Section 1202) amended to create consistency with other regulations.

**Former Section 1203. Food Equipment and Utensils (II)**

Former Section 1203 removed due to being unnecessary.

**1303. Meals and Services.**

Former Section 1303.A-B removed due to not being relevant to all facilities.

Section 1303.A (former Section 1204.C) amended to reflect that only Residential Facilities serve food.

Former Sections 1204.D-E removed to create consistency with other regulations.

Section 1303.B (former Section 1204.F) amended to create consistency with other regulations.

**1304. Meal Service Personnel for Residential Facilities (II).**

Section 1304 (former Section 1205) title amended to reflect that this section only applies to Residential Facilities. Also amended to reflect current terminology and create consistency with other regulations.

**Former 1206. Diets.**

Section 1206 recodified to 1305.B.

**1305. Menus.**

Section 1305.B recodified from former Section 1206 and amended to create consistency with other regulations.

**Former 1208. Ice and Drinking Water.**

Section 1208 removed due to being unnecessary.

**Former 1209. Equipment.**

Section 1209 removed due to being unnecessary.

**FORMER SECTION 1300 MAINTENANCE**

Section 1300 recodified to SECTION 1600.

**FORMER SECTION 1400 INFECTION CONTROL AND ENVIRONMENT**

Section 1400 recodified to SECTION 1700.

**SECTION 1400 – EMERGENCY PROCEDURES AND DISASTER PREPAREDNESS (FORMER 1500 EMERGENCY PROCEDURES/DISASTER PREPAREDNESS)**

**Former 1501. General**

Former 1501 removed to create consistency with other regulations.

## **48 PROPOSED REGULATIONS**

### **1401. Disaster Preparedness (II).**

Section 1401(formerly Section 1502) amended to create consistency with other regulations.

Section 1401.C added to create consistency with other regulations.

Section 1401.D added for clarity and to create consistency with other regulations.

Former Section 1502.C recodified to proposed Section 1503.A.

### **1402. Licensed Capacity During an Emergency (II).**

Section 1402 recodified from 103.EXCEPTION and amended for clarity and to create consistency with other regulations.

### **1403. Emergency Call Numbers (II).**

### **1404. Continuity of Essential Services (II)**

Section 1404 (formerly Section 1504) amended to reflect that the plan shall be written to create consistency with other regulations.

## **SECTION 1500 - FIRE PREVENTION (Former SECTION 1600 FIRE PREVENTION)**

### **1501. Arrangements for Fire Department Response (I).**

### **1502. Fire Response Training (I).**

Section 1502 amended to create consistency with other regulations.

### **1503. Fire Drills (I).**

Section 1503.A recodified from former Section 1502.C and amended to create consistency with other regulations.

Section 1503.B (former 1603.A) amended to create consistency with other regulations.

Former 1603.B recodified to proposed Section 1503.D.1.

Former Section 1603.C recodified to proposed Section 1503.D.2.

Section 1503.C added to create consistency with other regulations.

Section 1503.D.1 recodified from previous Section 1603.B.

Section 1503.D.2 recodified from previous Section 1603.C.

Former 1503.D and 1503.E removed due to being unnecessary.

## **SECTION 1600 – MAINTENANCE (Former SECTION 1300 MAINTENANCE)**

SECTION 1600 – added title and content to create consistency with other regulations.

**1601. General (II).**

Section 1601 recodified from former Section 1301 and amended to create consistency with other regulations.

**1602. Preventive Maintenance of Emergency Equipment and Supplies (II).**

Section 1602 recodified from former Section 1302.

**SECTION 1700 – INFECTION CONTROL AND ENVIRONMENT (Former SECTION 1400 INFECTION CONTROL AND ENVIRONMENT)**

**1701. Staff Practices.**

Section 1701 recodified from former section 1401.

**1702. Tuberculosis Risk Assessment and Screening (1).**

Section 1702 amended to reflect current CDC and Department guidelines for tuberculosis.

**1703. Tuberculosis Screening for Patients (1).**

Section 1703 amended to reflect current CDC and Department guidelines for tuberculosis.

**1704. Housekeeping (II).**

Section 1704 recodified from former Section 1405 and amended to clarify “harmful chemicals” and “safe storage” per public comment.

**1705. Infectious Waste (I).**

Section 1705 recodified from former Section 1406.

**1706. Pets (II).**

Section 1706 recodified from former Section 1407.

**1707. Clean and Soiled Linen and Clothing (II).**

Section 1707 recodified from former Section 1408 and amended to clarify that this regulation is only for Residential Facilities per public comment.

**SECTION 1800 – QUALITY IMPROVEMENT PROGRAM (Former SECTION 1700 QUALITY IMPROVEMENT PROGRAM)**

Section 1800 amended numerical organization from 1700 to 1800 to create consistency within this regulation. Also amended to reflect current terminology.

**SECTION 1900 – DESIGN AND CONSTRUCTION (Former SECTION 1800 DESIGN AND CONSTRUCTION)**

**1901. Codes and Standards.**

Section 1901 (formerly Section 1801) amended to create consistency with other regulations and clarity.



## **50 PROPOSED REGULATIONS**

### **1902. Local and State Codes and Standards (II).**

Section 1902.A amended for clarity and to create consistency with other regulations.

Former Sections 1802.B and 1802.C removed due to being redundant.

Section 1902.B-E recodified from former Section 1803.

### **Former 1803. Construction and Systems (II).**

Former Section 1803 removed due to being incorporated into proposed Section 1902.

### **1903. Submission of Plans and Specifications (II).**

Section 1903.A amended for clarity and to create consistency with other regulations.

Section 1903.B amended to create consistency with other regulations and for clarity.

### **1904. Construction Inspections**

Section 1904 (formerly Section 1805) amended to create clarity and to require proper permitting.

## **FORMER SECTION 1900 – GENERAL CONSTRUCTION REQUIREMENTS**

Section 1900 removed to create consistency with other regulations.

### **Former 1901. Fire Resistive Rating**

Section 1902 recodified to proposed Section 2000.C.

### **Former 1902. Curtains and Draperies**

Section 1902 removed due to being unnecessary.

## **SECTION 2000 – FIRE PROTECTION AND EQUIPMENT AND SYSTEMS**

### **2000. Fire Alarms (I).**

Section 2000 recodified from 2001 for organizational consistency within the regulation. Amended to create consistency with other regulations and current terminology.

Section 2000.C recodified from former Section 1901.

Section 2000.D added to create consistency with other regulations.

### **SECTION 2100 – [RESERVED]**

Section 2100 added as a reserved section in order to create consistency with other regulations.

### **SECTION 2200 – [RESERVED]**

Section 2200 added as a reserved section in order to create consistency with other regulations.

**SECTION 2300 – [RESERVED]**

Section 2300 added as a reserved section in order to create consistency with other regulations.

**SECTION 2400 – ELECTRICAL (Former SECTION 2100 ELECTRICAL)**

**2401. Receptacles (II).**

Section 2401 added to create consistency with other regulations.

**2402 Ground Fault Protection (I).**

Section 2402 recodified from former Section 2211.

**2403. Exit Signs (I).**

Section 2403 added former Section 2212.

**2404. Emergency Electric Service (I).**

Section 2404 (former 2101) amended for clarity.

**2405. Emergency Generator Service.**

Section 2405 amended to reflect current terminology. Also amended to not require Opioid Treatment Programs to have generators per public comment.

**SECTION 2500 – [RESERVED]**

Section 2500 added as a reserved section in order to create consistency with other regulations.

**SECTION 2600 – PHYSICAL PLANT (Former SECTION 2200 PHYSICAL PLANT)**

Section 2600 amended to clarify which facilities and programs are required to fulfill each of the following regulations in this section per public comment.

**2601. Facility Accommodations and Floor Area (II).**

Section 2601 (formerly Section 2201) amended to reflect current terminology and to clarify which regulations are specific to Residential Facilities, rather than Opioid Treatment programs per public comment, and for general clarity.

**2602. Design (I).**

Section 2602 (formerly Section 2202) amended for clarity.

**2603. Furnishings and Equipment (I).**

Section 2603 (formerly Section 2203) amended for clarity.

**2604. Exits (I). (Formerly Number and Locations)**

Section 2604 (formerly Section 2204) amended for clarity.

## **52 PROPOSED REGULATIONS**

Section 2604. EXCEPTION amended to be integrated with 2604.D.

### **2605. Water Supply and Hygiene (II).**

Section 2605 (formerly Section 2205) amended for clarity.

### **2606. Temperature Control (I).**

Section 2606 (formerly Section 2606) amended for clarity.

### **2607. Cross-connections (I).**

Section 2607 added to create consistency with other regulations.

### **2608. Wastewater Systems. (Formerly 2207. Design and Construction of Waste water Systems (I).)**

Section 2608 (formerly Section 2207) amended for clarity.

### **2609. Electric Wiring (I).**

Section 2609 (formerly Section 2208) amended for clarity.

### **2610. Panelboards (II).**

Section 2610 (formerly Section 2209) amended for clarity.

### **2611. Lighting.**

Section 2611 (formerly Section 2210) amended for clarity.

### **Former Section 2211 Ground Fault Protection (I).**

Former Section 2211 recodified to 2402.

### **Former Section 2212 Exit Signs (I).**

Former Section 2212 recodified to 2403.

### **2612. Heating, Ventilation, and Air Conditioning (II).**

Section 2612 (formerly Section 2213) amended title to remove acronym. Also amended to reflect current terminology and to create consistency with other regulations.

### **2613. Patient Rooms (II). (Formerly 2214 Client Rooms)**

Section 2613 (formerly Section 2214) amended to reflect current terminology and to create consistency with other regulations.

Section 2613.A amended for clarity.

Section 2613. EXCEPTION.1 removed due to being unnecessary.

Section 2613. EXCEPTION.2 removed due to being unnecessary.

**2614. Patient Room Floor Area.**

Section 2614 (formerly Section 2215) amended to reflect current terminology and clarity.

**2615. Bathrooms and Restrooms.**

Section 2615 (formerly Section 216) amended to reflect current terminology and to create consistency with other regulations. Exception determined to not be necessary to regulate.

**2616. Seclusion Room.**

Section 2616 (formerly Section 2217) amended to reflect current terminology.

**2617. Patient Care Unit and Station for Medical Withdrawal Management (II). (formerly 2218. Client Care Unit and Station (Applicable to medical detoxification facilities only).)**

Section 2617 (formerly Section 2218) amended to create consistency with other regulations and reflect current terminology.

Section 2617.D amended to change narcotics to “controlled substances” per public comment.

**2618. Doors (II). (formerly Section 2219)**

Section 2618.C removed to create consistency with other regulations.

Section 2618. EXCEPTION removed due to being unnecessary.

Section 2618.I removed due to create consistency with other regulations.

Section 2618.J removed due to being redundant.

**2619. Elevators (II).**

Section 2619 (formerly Section 2220) amended for clarity.

**Former 2221. Corridors**

Former Section 2221 removed to create consistency with other regulations.

**Former 2222. Ramps.**

Former Section 2222 removed to create consistency with other regulations.

**Former 2223. Landings.**

Former Section 2223 removed to create consistency with other regulations.

**Former 2224. Handrails/Guardrails.**

Former Section 2224 removed to create consistency with other regulations.

**2620. Screens (II).**

## **54 PROPOSED REGULATIONS**

Section 2620 (formerly Section 2225) amended for clarity.

### **Former 2226. Windows.**

Former Section 2226 deleted to create consistency with other regulations.

### **2621. Janitor's Closet.**

Section 2621 (formerly Section 2227) amended to create consistency with other regulations, for clarity, and to reflect current terminology.

### **2622. Storage Areas.**

Section 2622 (formerly Section 2228) amended to improve clarity.

### **2623. Telephone Service.**

Section 2623 (formerly Section 2229) amended to create consistency with other regulations, for clarity, and reflect current terminology.

### **2624. Location.**

Section 2624 (formerly Section 2230) amended for clarity, to reflect current terminology, and to create consistency with other regulations.

### **2625. Outdoor Area.**

Section 2625 (formerly Section 2231) amended for clarity, to reflect current terminology, and to create consistency with other regulations.

## **SECTION 2700 – SEVERABILITY (I) (Former SECTION 2300 SEVERABILITY)**

SECTION 2700 amended for clarity.

## **SECTION 2800 – GENERAL (I) (Former SECTION 2400 GENERAL)**

SECTION 2800 amended for clarity.

## **FORMER PART II OUTPATIENT FACILITIES**

Deleted title as this section has been incorporated into the regulation above to create consistency with other regulations.

## **FORMER SECTION 2500 PROGRAM DESCRIPTION**

FORMER SECTION 2500 removed as all content is being recodified to various locations within the regulation.

## **FORMER PART III TREATMENT PROGRAM**

Deleted title as this section has been incorporated into the regulation above to create consistency with other regulations.

**FORMER SECTION 2600 PROGRAM DESCRIPTION**

FORMER SECTION 2600 removed as all content is being recodified to various locations within the regulation.

Former 2601.B.1, B.11, B.16 removed due to being unnecessary.

Former 2602.B.3 removed due to being unnecessary.

Former 2606 removed due to being unnecessary.

**FORMER PART IV DETOXIFICATION FACILITIES**

Deleted title as this section has been incorporated into the regulation above to create consistency with other regulations.

**FORMER SECTION 2700 PROGRAM DESCRIPTION**

Former Section 2700 removed as all content is being recodified to various locations within the regulation.

Former 2701.B.2-7 removed due to the recommendation of Bureau of Drug Control.

**FORMER PART V NARCOTIC TREATMENT PROGRAMS**

Deleted title as this section has been incorporated into the regulation above to create consistency with other regulations.

**FORMER SECTION 2800 PROGRAM DESCRIPTION**

Former Section 2800 removed as all content is being recodified to various locations within the regulation.

Former 2801.A removed due to being unnecessary.

Former 2801.B.1 removed due to being unnecessary.

Former 2806 removed due to being unnecessary.

Former 2813 removed due to being redundant.

Former 2814 removed due to being redundant.

Former 2821 removed due to being unnecessary.

Former 2822 removed due to being unnecessary.

Former 2823 removed due to being unnecessary.

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

Interested persons may submit written comments on the proposed amendments to Health Regulation, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201; [HealthRegComm@dhec.sc.gov](mailto:HealthRegComm@dhec.sc.gov). Comments may also be submitted electronically on the Public Comments for Health Regulations page at the following address: <http://www.scdhec.gov/Agency/RegulationsAndUpdates/PublicComments/>. To be considered, the Department must receive the comment(s) by 5:00 p.m. on December 23, 2019, the close of the comment period.

## 56 PROPOSED REGULATIONS

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendments during its January 6, 2019, 10:00 a.m. meeting. Interested persons may also make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statement to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC Building, located at 2600 Bull Street, Columbia, South Carolina 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. The Department will publish a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at: <http://www.scdhec.gov/Agenda>.

Copies of the proposed amendments for public comment as published in the *State Register* on November 22 2019, may be obtained online in the DHEC Regulation Development Update at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>. Click on the Health Facilities Licensing Regulatory Update and scroll down to the proposed amendments of R.61-93. A copy can also be obtained by emailing [HealthRegComm@dhec.sc.gov](mailto:HealthRegComm@dhec.sc.gov).

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

Implementation of these amendments will not require additional resources. There is no anticipated additional cost by the Department or state government due to any inherent requirements of these amendments.

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

The following presents an analysis of the factors listed in 1976 Code Sections 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: 61-93, Standards for Licensing Facilities that Treat Individuals for Psychoactive Substance Abuse or Dependence

Purpose: The Department proposes amending R.61-93 to update provisions in accordance with current practices and standards. The Department also proposes changing the name of the regulation and facility type to parallel the statutory term for this facility type. Additional proposed revisions include those for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation.

Legal Authority: 1976 Code Sections 44-7-260 et seq.

Plan for Implementation: The DHEC Regulation Development Update (accessible at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>) will provide a summary of and link to a copy of the proposed amendment. Additionally, printed copies are available for a fee from the Department's Freedom of Information Office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amended regulation and any associated information.

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

These proposed amendments are necessary to change the name of the regulation and the definition of the facility within the regulation to parallel the statutory term for this facility type, which is "Facility for Chemically Dependent or Addicted Persons." The facility type may also be referred to as "Substance Use Disorder Facilities" based on current terminology within the provider community, thereby reducing provider confusion. The proposed new amendments herein include the Bureau of Health Facilities Licensing's effort to incorporate provisions relating to statutory mandates, update terminology used in the regulation to conform to the terminology widely used and understood within the provider community, incident reporting, staffing and training requirements, medication management, patient care and services, infection control, meal service, emergency procedures, design and construction, fire and life safety, and other miscellaneous requirements for licensure. In addition, corrections have been made for organization, clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation.

**DETERMINATION OF COSTS AND BENEFITS:**

Implementation of these amendments will not require additional resources. There is no anticipated additional cost to the Department or state government due to any inherent requirements of these amendments. There are no anticipated additional costs to the regulated community.

**UNCERTAINTIES OF ESTIMATES:**

None.

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

The amendments to R.61-93 seek to support the Department's goals relating to the protection of public health through the anticipated benefits of facilities adhering to the updated language and provisions highlighted above. There are no anticipated effects on the environment.

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

There is no anticipated detrimental effect on the environment. If the revision is not implemented, the regulation will be maintained in its current form without realizing the benefits of the amendments herein.

**Statement of Rationale:**

Here below is the Statement of Rationale pursuant to S.C. Code Section 1-23-110(h):

The Department proposes amending R.61-93 to update provisions in accordance with current practices and standards. Proposed amendments include updated language for facilities applying for licensure and incorporate provisions delineating new requirements in training staff members, as well as new nursing and medical staff requirements. The proposed amendments incorporate and revise provisions relating to statutory mandates, update terminology to conform to the terminology widely used and understood within the provider community, and revise requirements for incident reporting, staffing and training requirements, medication management, patient care and services, infection control, meal service, emergency procedures, design and construction, fire and life safety, and other miscellaneous requirements for licensure. The Department also proposes changing the name of the regulation and facility type to parallel the statutory term for this facility type. Additional proposed revisions include those for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation.

**Text:**

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



## 58 PROPOSED REGULATIONS

Document No. 4953

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-7-260 et seq.

61-97. Standards for Licensing Renal Dialysis Facilities.

#### **Preamble:**

The Department of Health and Environmental Control (“Department”) proposes amending R.61-97 to update provisions in accordance with current practices and standards. Proposed amendments incorporate and revise provisions relating to statutory mandates, update terminology to conform to the terminology widely used and understood within the provider community, and revise requirements for incident reporting, staffing and training requirements, medication management, patient care and services, infection control, meal service, emergency procedures, design and construction, fire and life safety, and other miscellaneous requirements for licensure. The Department further proposes revisions for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation. R.61-97 was last amended in 2010.

The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

A Notice of Drafting was published in the March 22, 2019, *South Carolina State Register*.

#### Section-by-Section Discussion of Proposed Amendments:

**The Table of Contents was amended to reflect proposed revisions.**

**CHAPTER 1 Definitions and Interpretations** removed to create consistency with other regulations.

#### **SECTION 100 DEFINITIONS AND LICENSURE**

Section 100 title amended to create consistency with other regulations. Recodified each definition as need to maintain alphabetical organization.

#### **101. Definitions (Formerly SECTION 101. Definitions)**

101.A definition of Abuse added to create consistency with other regulations.

101.B definition of Administering Medication added to create consistency with other regulations.

101.C definition of Administrator added to create consistency with other regulations.

101.D definition of Annual added to create consistency with other regulations.

101.E definition of Assessment added to create consistency with other regulations.

101.F definition of Authorized Healthcare Provider added to create consistency with other regulations.

101.G definition of Consultation added to create consistency with other regulations.

101.J definition of Controlled Substance added to create consistency with other regulations.

101.K definition of Department added to create consistency with other regulations.

- 101.L definition of Designee added to create consistency with other regulations.
- 101.N definition of Dietitian amended to create consistency with other regulations.
- 101.O definition of Direct Care Staff added to create consistency with other regulations.
- 101.P definition of Discharge added to create consistency with other regulations.
- 101.Q definition of End-Stage Renal Disease amended to remove acronym.
- 101.R definition of End-Stage Renal Disease Service amended to remove acronyms and reflect current terminology.
- 101.S definition of Exploitation added to create consistency with other regulations
- 101.T definition of Health Assessment added to create consistency with other regulations.
- 101.U definition of Home Dialysis amended for clarity.
- 101.V definition for Home Dialysis Training added to be consistent with the content of this regulation.
- 101.W definition of Individual Plan of Care added to create consistency with other regulations and reflect current terminology.
- Former 101.H definition of Inpatient Dialysis removed to reflect old terminology.
- 101.X definition of Interdisciplinary Team added to create consistency with other regulations.
- 101.Y definition of Inspection added to create consistency with other regulations.
- 101.Z definition of Investigation added to create consistency with other regulations.
- 101.AA definition of Legend Drug added to create consistency with other regulations.
- 101.BB definition of License added to create consistency with other regulations.
- 101.CC recodified to keep alphabetization of definitions consistent and amend to reflect current terminology.
- 101.DD definition for Licensed Nurse amended to reflect current terminology, create consistency with other regulation, and for clarity.
- 101.EE definition of Licensee added to create consistency with other regulation.
- Former 101.L removed definition of Licensing Agency due to being retired terminology.
- 101.FF definition of Medical Director added to reflect current terminology and to create consistency with other regulation.
- 101.GG definition of Medication added to create consistency with other regulations.
- 101.HH definition of Neglect added to create consistency with other regulations.
- 101.II definition of Non-Legend Drug added to create consistency with other regulations.

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Former 101.M definition for Outpatient Dialysis removed to create consistency with other regulations.  
101.JJ definition for Patient amended to create consistency with other regulations.

Former 101.O definition of Patient Care Technician removed due to being retired terminology.

101.KK definition of Physical Examination added to create consistency with other regulations.

101.LL definition of Quality Improvement Program added to create consistency with other regulations.

101.MM definition of Quarterly added to create consistency with other regulations.

Former 101.P definition of Registered Nurse removed to create consistency with other regulations.

101.NN definition of Registered Health Information Administrator added to reflect current terminology.

101.OO definition of Registered Health Information Technician added to reflect current terminology.

101.PP definition for Renal Dialysis Equipment Technician added to reflect current terminology.

101.QQ definition of Renal Dialysis Facility amended for clarity.

101.RR definition for Revocation of License added to create consistency with other regulations.

Former 101.R definition of Self Dialysis and Home Dialysis Training removed due to adding Home Dialysis as its own definition.

Former 101.S definition of Self-Dialysis Unit removed due to being retired terminology.

Former 101.U definition of Staff Assisted Dialysis removed due to not being necessary.

101.SS definition of Station added for clarity.

101.TT definition of Suspension of License added to create consistency with other regulations.

101.UU Tuberculosis Risk Assessment added to create consistency with other regulations.

### **102. Licensure. (II) (Formerly SECTION 102. Interpretations)**

Section 102 title amended to reflect current terminology and to create consistency with other regulations.  
Recodified partial content to create consistency with other regulations.

Section 102.A amended to reflect current terminology, create consistency with other regulations, and to incorporate regulation from former 102.I and 102.J.

Section 102.B.2 amended for clarity.

Former 102.C removed unnecessary regulation.

Former 102.D removed unnecessary regulation.

Former 102.E-L removed to allow for new content in Section 102 that is consistent with other regulations.

Section 102.C-O added to create consistency with other regulations.

Section 102.N added to reflect change from exception (former 102.K) to variance.

**103. Requirements for Issuance of License. (Formerly SECTION 103. Penalties)**

Former Section 103 introductory paragraph recodified to 301 to create consistencies with other regulations and amended to reflect current terminology.

Former Section 103.A,B,C,D recodified to 302 to create consistencies with other regulations.

**Former CHAPTER 2 Licensing Procedures** – recodified to create consistency with other regulations.

**Former Section 201. Application** recodified to proposed Section 102.

**Former Section 202. Requirement for Issuance of License** recodified to proposed Sections 202.A and 102.F.

**Former Section 203. Termination of License** recodified to proposed Section 102.E

**SECTION 200 – ENFORCEMENT OF REGULATION** added to create consistency with other regulations.

**201. General** added to create consistency with other regulations.

**202. Inspections and Investigations** added to create consistency with other regulations.

**203. Consultations** added to create consistency with other regulations

**Former Chapter 3 Governing Authority and Management** removed and recodified content to create consistency with other regulations.

**Former 300 Sections Recodified:**

Former Section 301 recodified to proposed Section 500.

Former Section 302.A removed due to being unnecessary for this regulation.

Former Section 302.B recodified to 401.

Former Section 303 recodified to 502.

Former Section 304 recodified to 501.

Former Section 305 Intro. recodified to Section 500 and 1704.

Former Section 305.A recodified to 1703.

Former Section 305.B recodified to 504.

Former Section 305.C recodified to 508.

Former Section 305.D recodified to 501.

Former Section 305.E recodified to 506.

Former Section 305.F recodified to 507.

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Former Section 306 recodified to 505.

Former Section 307 recodified to 905.

Former Section 308 recodified to 1000.

Former Section 309 recodified to 1400.

Former Section 310 recodified to 601.

**SECTION 300 – ENFORCEMENT ACTIONS** added to create consistency with other regulations.

**301. General** recodified from former Section 102.J and amended to create consistency with other regulations.

**302. Violation Classifications** Section 302 recodified from 103.A, B, C, D and amended to reflect current terminology and to create consistency with other regulations.

**Former CHAPTER 4 Professional Care** recodified to create consistency with other regulations.

### **Former 400 Sections Recodified**

Former Section 401 recodified to proposed Section 401.

Former Section 402 recodified to 703.

Former Section 403 recodified to 701 and 704.

Former Section 404 recodified to 503 and 504.A.

Former Section 405 recodified to 1201, 1202, and 1203.

Former Section 406 recodified to 901.

Former Section 407 recodified to 902.

Former Section 408 recodified to 903.

Former Section 409 recodified to multiple sections within SECTION 1700.

Former Section 410 recodified to 1712.

Former Section 411 recodified to 904.

**SECTION 400 – POLICIES AND PROCEDURES** added to create consistency with other regulations.

Section 401.A added to create consistency with other regulations.

Section 401. B recodified from former 302.B.4 and amended to create consistency with other regulations.

Section 401.C recodified from former 302.B and amended to create consistency with other regulations.

**SECTION 500 – STAFF AND TRAINING** added to create consistency with other regulations.

**501. General.**

Section 500 former Section 305 and amended to create consistency with other regulations.

**502. Administrator.**

Section 502 recodified from former 303 and amended to create consistency with other regulations.

**503. Director of Nursing.**

Section 503 recodified from former Section 404 and amended to create consistency with other regulations and to reflect current terminology.

**504. Staffing (I).**

Section 504.A recodified from former 404 and amended to reflect current terminology.

Section 504.B recodified from former 305.B and amended to reflected current terminology.

Section 504.C added to create consistency with other regulations.

**505. Medical Staff.**

Section 505 recodified from former 306 and amended for clarity.

Section 505.D recodified from former 306.C and amended per public comment.

Section 505.E added to create consistency with other regulations.

**506. Job Descriptions.**

Section 506 recodified from former 305.E and amended to create consistency with other regulations.

**507. Orientation (II).**

Section 507 recodified from former 305.F and amended to reflect current terminology.

**508. Training.**

Section 508 recodified from 305 and amended to reflect current terminology and to create consistency with other regulations.

**509. Health Assessment.**

Section 509 added to create consistency with other regulations.

**SECTION 600 – REPORTING** added to create consistency with other regulations.

**601. Incidents.**

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Section 601 recodified from former 310 and amended to reflect current terminology, to add clarity to the reporting requirements, and to create consistency with other regulations.

### **602. Reportable Diseases and Infections.**

Section 602 recodified from former Section 409 and amended to create consistency with other regulations.

### **603. Closure and Zero Census.**

Section 603 added to create consistency with other regulations.

**SECTION 700 – PATIENT RECORDS** added to create consistency with other regulations.

### **701. Content.**

Section 701 recodified from former 401 and amended to reflect current terminology and to create consistency with other regulations. 701.B.3 amended per public comment.

### **702. Authentication.**

Section 702 added to create consistency with other regulations.

### **703. Individual Plan of Care.**

Section 703 recodified from former 402 and amended to reflect current terminology and to create consistency with other regulations.

### **704. Record Maintenance.**

Section 704 recodified from former 403 and amended to reflect current terminology and create consistency with other regulations.

### **705. Record Retention.**

Section 705 added to create consistency with other regulations.

**SECTION 800 – [RESERVED]** added as reserved to create numerical consistency with content sections of other regulations.

**SECTION 900 – PATIENT CARE AND SERVICES** added to create consistency with other regulations.

### **901. Dietary Services.**

Section 901 recodified from former 406 and amended to reflect current terminology and to create consistency with other regulations.

### **902. Laboratory Services. (II)**

Section 902 recodified from former 407 and amended to reflect current terminology and to create consistency with other regulations.

### **903. Social Services.**

Section 903 recodified from former 408 and amended to create consistency with other regulations.

**904. Home Dialysis.**

Section 904 recodified from former 411 and amended to reflect current terminology and to create consistency with other regulations.

**905. Transfer Agreement.**

Section 905 recodified from former 307 and amended to reflect current terminology and consistency with other regulations.

**SECTION 1000 – PATIENT’S RIGHTS AND ASSURANCES** added to create consistency with other regulations.

Section 1000 recodified from former 308. Also amended former 308.A.3, recodified to Section 1000.A.3 per public comment.

**SECTION 1100 – PATIENT PHYSICAL EXAMINATIONS** added to create consistency with other regulations.

**SECTION 1200 – MEDICATION MANAGEMENT** added to create consistency with other regulations.

**1201. General.**

Section 1201 recodified from 405 and amended to reflect current terminology and to create consistency with other regulations.

**1202. Medication Orders.**

Section 1202 added to create consistency with other regulations.

**1203. Medicine Storage.**

Section 1203 recodified from former 405.C,D,E,G,H and amended to create consistency with other regulations.

**SECTION 1300 – [RESERVED]** added as reserved to create numerical consistency with content sections of other regulations.

**SECTION 1400 – EMERGENCY PROCEDURES AND DISASTER PREPAREDNESS** added to create consistency with other regulations.

**1401. Disaster Preparedness. (II)**

Section 1401 recodified from former 309 and amended to create consistency with other regulations.

**1402. Continuity of Essential Services.**

Section 1402 added to create consistency with other regulations.

**SECTION 1500 – FIRE PREVENTION** added to create consistency with other regulations.

**1501. Arrangements for Fire Department Response and Protection (I).**



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Section 1501 added to create consistency with other regulations.

### **1502. Tests and Inspections. (II)**

Section 1502 added to create consistency with other regulations.

### **1503. Fire Response Training. (I)**

Section 1503 added to create consistency with other regulations.

### **1504. Fire Drills.**

Section 1504 recodified from former 309.B and amended to reflect current terminology.

### **1505. Fire Extinguishers, Standpipes, and Automatic Sprinklers.**

Section 1505 added to create consistency with other regulations.

**SECTION 1600 – MAINTENANCE** added to create consistency with other regulations.

### **1601. General.**

Section 1601 recodified from former 2006 and amended to show current terminology and to require the facility's documentation of preventive maintenance and compliance with specified codes.

### **1602. Equipment Maintenance.**

Section 1602 recodified from former Sections 2301 and 407.C.

**1700 – INFECTION CONTROL** added to create consistency with other regulations.

### **1701. Staff Practices.**

Section 1701 added to create consistency with other regulations.

### **1702. Committee.**

Section 1702 recodified from former 409.A and amended to create consistency with other regulations.

### **1703. Tuberculosis Risk Assessment and Screening.**

Section 1703 recodified from former 305.A and amended to current CDC and Departmental TB guidelines to create consistency with other regulations.

### **1704. Staff Hepatitis Screening.**

Section 1704 recodified from former 305 and amended to align with CDC practices and worded according to TB Control's suggestion, creating consistency with other regulations.

### **1705. Patient Hepatitis Screening.**

Section 1705 recodified from former 409.D and amended to align with CDC practices.

**1706. Isolation Facilities.**

Section 1706 recodified from former 409.E and amended to reflect current terminology and create consistency with other regulations.

**1707. Housekeeping. (II)**

Section 1707 recodified from former 2007 and 409.H and amended to reflect current terminology and to create consistency with other regulations.

**1708. Linen.**

Section 1708 recodified from former 409.F and amended to create consistency with other regulations.

**1709. Refuse and Waste Disposal. (II)**

Section 1709 recodified from former 2009 and 409.G and amended to create consistency with other regulations.

**1710. Outside Areas.**

Section 1710 recodified from former 2010 and amended to create consistency with other regulations.

**1711. Toxic and Hazardous Substances.**

Section 1711 recodified from former 410 and amended to create consistency with other regulations.

**SECTION 1800 – [RESERVED]** added as reserved to create numerical consistency with content sections of other regulations.

**SECTION 1900 – DESIGN AND CONSTRUCTION** added to create consistency with other regulations.

**1901. General.**

Section 1901 recodified from former 2001 and amended to reflect current terminology.

**1902. Code and Standards.**

Section 1902 recodified from former 2002 and amended to create consistency with other regulations.

**1903. Submission of Plans and Specifications.**

Section 1903 recodified from former 2003 and amended to create consistency with other regulations.

**1904. Location.**

Section 1904 recodified from former 2004 and amended to create consistency with other regulations.

**Former PART II Physical Plant** removed to create consistency with other regulations.

**Former Chapter 20 Design and Construction** remove to create consistency with other regulations.

Former Section 2001 recodified to 1901 and amended.

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Former Section 2002 recodified to 1902 and amended.

Former Section 2003 recodified to 1903 and amended.

Former Section 2004 recodified to 1904 and amended.

Former Section 2005 recodified to 2601 and amended.

Former Section 2006 recodified to 1601 and amended.

Former Section 2007 recodified to 1707 and amended.

Former Section 2008 recodified to 2300 and amended.

Former Section 2009 recodified to 1709 and amended.

Former Section 2010 recodified to 1710 and amended.

**SECTION 2000 – FIRE PROTECTION, PREVENTION, AND LIFE SAFETY** recodified from former Section 2102 and amended to create consistency with other regulations.

**FORMER CHAPTER 21 Fire Protection and Prevention** removed to create consistency with other regulations.

Former Section 2101 recodified to proposed section 1505 and amended.

Former Section 2102 recodified to proposed section 2000 and amended.

Former Section 2103 recodified to proposed section 2101 and amended.

**SECTION 2100 – GENERAL CONSTRUCTION** recodified from former Sections 2103 and amended to create consistency with other regulations.

**Former CHAPTER 22 Mechanical Requirements** removed to create consistency with other regulations.

Former Section 2201 recodified to 2500 and amended.

Former Section 2202 recodified to 2401 and amended.

Former Section 2203 recodified to 2402 and amended.

**SECTION 2200 – [RESERVED]** added as reserved to create numerical consistency with content sections of other regulations.

**Former CHAPTER 23 Preventive Maintenance of Equipment** removed to create consistency with other regulations.

Former Section 2301 recodified to 1602 and amended.

**SECTION 2300 – WATER SUPPLY** recodified from former 2008.

**Former CHAPTER 24 General** recodified to 2700.

**SECTION 2400 – ELECTRICAL** added to create consistency with other regulations.

**2401. General.**

Section 2401 recodified from former 2202 and amended to create consistency with other regulations. Section 2402.B.2 amended per public comment.

**2402. Lighting and Electrical Services.**

Section 2402 recodified from former 2203 and amended to create consistency with other regulations.

**SECTION 2500 – HEATING, VENTILATION, AND AIR CONDITIONING (HVAC)** added to create consistency with other regulations.

Section 2500 recodified from former 2103 and amended to create consistency with other regulations.

**SECTION 2600 – PHYSICAL PLANT** added to create consistency with other regulations.

**2601. General.**

Section 2601 recodified from former 2005 and amended to create consistency with other regulations.

**2602. Ground Fault Protection.**

Section 2602 added to create consistency with other regulations.

**SECTION 2700 – SEVERABILITY** added to create consistency with other regulations.

**Former APPENDIX A** – removed due to contents being incorporated elsewhere in this regulation.

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

Interested persons may submit comment(s) on the proposed amendments to Health Regulation; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201; [HealthRegComm@dhec.sc.gov](mailto:HealthRegComm@dhec.sc.gov). Comments may also be submitted electronically on the Public Comments for Health Regulations page at the following address: <http://www.scdhec.gov/Agency/RegulationsAndUpdates/PublicComments/>. To be considered, The Department must receive the comment(s) by 5:00 p.m. on December 23, 2019, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendments during its January 6, 2019, 10:00 a.m. meeting. Interested persons may make oral and/or submit written comments at the public hearing. Persons making oral comments should their statements to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC Building, located at 2600 Bull Street, Columbia, S.C. 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. The Department will publish a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at: <http://www.scdhec.gov/Agenda>.

Copies of the proposed amendments for public comment as published in the *State Register* on November 22 2019, may be obtained online in the DHEC Regulation Development Update at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>. Click on the Health Facilities Licensing Regulatory Update and scroll down to the proposed amendments of R.61-97. A copy can also be obtained by emailing [HealthRegComm@dhec.sc.gov](mailto:HealthRegComm@dhec.sc.gov).

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

Implementation of this regulation will not require additional resources. There is no anticipated additional cost by the Department or state government due to any requirements of this regulation.

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

The following presents an analysis of the factors listed in 1976 Code Sections 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: 61-97, Standards for Licensing Renal Dialysis Facilities.

Purpose: The Department proposes amending R.61-97 to update provisions in accordance with current practices and standards. The Department further proposes revisions for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation.

Legal Authority: 1976 Code Sections 44-7-260 et seq.

Plan for Implementation: The DHEC Regulation Development Update (accessible at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>) will provide a summary of and link to a copy of the proposed amendment. Additionally, printed copies are available for a fee from the Department's Freedom of Information Office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amended regulation and any associated information.

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

The proposed amendments are necessary to update provisions in accordance with current practices and standards. The amendments include updated language for facilities applying for licensure and incorporate provisions delineating new requirements in training staff members, as well as new nursing and medical staff requirements. The amendments revise and incorporate requirements regarding maintenance of policies and procedures, Department inspections and investigations, maintenance of accurate and current contact and training information for staff members, and other miscellaneous requirements for licensure.

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

Implementation of these amendments will not require additional resources. There is no anticipated additional cost to the Department or state government due to any inherent requirements of these amendments. There are no anticipated additional costs to the regulated community.

### **UNCERTAINTIES OF ESTIMATES:**

None.

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

The proposed amendments to R.61-97 seek to support the Department's goals relating to the protection of public health through implementing updated requirements for renal dialysis facilities. There are no anticipated effects on the environment.

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

There is no anticipated detrimental effect on the environment. If the proposed revision is not implemented, the regulation will be maintained in its current form without realizing the benefits of the amendments herein.

**Statement of Rationale :**

**Here below is the Statement of Rationale pursuant to S.C. Code Section 1-23-110(h):**

The Department of Health and Environmental Control is proposing amendments to R.61-97. These amendments are necessary to update provisions in accordance with current practices and standards. The amendments include updated language for facilities applying for licensure and incorporate provisions delineating new requirements in training staff members, as well as new nursing and medical staff requirements. The amendments revise and incorporate requirements regarding maintenance of policies and procedures, Department inspections and investigations, maintenance of accurate and current contact and training information for staff members, and other miscellaneous requirements for licensure.

**Text:**

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

Document No. 4935  
**COMMISSION ON HIGHER EDUCATION**  
CHAPTER 62  
Statutory Authority: 1976 Code Section 59-58-40

62-6. Licensing Criteria.

**Preamble:**

R.62-6 is being amended. The revision to the existing regulation governing Licensing Criteria is being considered to authorize the Commission to approve teach-out plans in rare instances such as sudden institutional closures, to enable students within the final 25% of their programs to re-enroll at another South Carolina non-public institution and complete their courses of study.

The proposed regulation will require legislative review.

A Notice of Drafting for the proposed regulation was published in the *South Carolina State Register* on October 25, 2019.

Section-by-Section Discussion

R.62-6(D) - language added to allow the Commission to approve teach-out plans or agreements.

**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 regulation at a public hearing to be conducted by the South Carolina Commission on Higher Education on January 9, 2020, to be held in the Main Conference Room at 1122 Lady Street, Suite 300, Columbia, SC. The meeting will commence at 1:00 p.m. at which time the Commission will consider items on its agenda in the

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order presented. The order of presentation for public hearings will be noted in the Commission's agenda to be published by the Commission the week in advance of the meeting.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing Dr. John Lane, Director of Academic Affairs, South Carolina Commission on Higher Education, 1122 Lady Street, Suite 300, Columbia, SC 29201. Comments must be received no later than 5:00 p.m. on December 23, 2019. Comments shall be considered by the staff in formulating the final proposed regulation for the public hearing on January 9, 2020, as noticed above. Comments received by the deadline shall be submitted to the Commission in summary of public comments for consideration at the public hearing.

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

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

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

DESCRIPTION OF REGULATION: 62-6. LICENSING CRITERIA.

Purpose: To authorize the Commission to approve teach-out plans in rare instances such as sudden institutional closures, to assist students within the final 25% of their programs in their programs.

Legal Authority: 1976 Code Section 59-58-40.

Plan for Implementation: The proposed regulation will take effect upon approval by the South Carolina General Assembly and publication in the *State Register*. The proposed regulation will be implemented by providing the regulated community with copies of the regulation.

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

The proposed regulation is necessary to hold harmless both the students within 25% of program completion who are adversely impacted by sudden institution closures, and the nonpublic institutions that serve them.

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

There will be no additional costs incurred by the State or any political subdivision.

### **UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning this regulation.

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

Not applicable.

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

Not applicable.

**Statement of Rationale :**

R.62-6 is being amended. The revision to the existing regulation governing Licensing Criteria is being considered to authorize the Commission to approve teach-out plans in rare instances such as sudden institutional closures, to enable students within the final 25% of their programs to re-enroll at another South Carolina non-public institution and complete their courses of study.

**Text:**

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

Document No. 4936  
**COMMISSION ON HIGHER EDUCATION**  
CHAPTER 62  
Statutory Authority: 1976 Code Section 59-114-75

62-250 through 62-262. South Carolina National Guard College Assistance Program.

**Preamble :**

The South Carolina Commission on Higher Education promulgates Regulation 62-250 through 62-262 that governs requirements for the operation and administration of the South Carolina National Guard College Assistance Program under SC Code of Laws, Section 59-114-10 et seq. The program is administered by the Commission in coordination with the South Carolina National Guard and provides financial assistance for eligible enlisted guard members enrolled in undergraduate programs. The Commission on Higher Education proposes to amend the regulation (R.62-253) that addresses student eligibility for the South Carolina National Guard College Assistance Program.

A Notice of Drafting for the proposed regulation was published in the *South Carolina State Register* on October 25, 2019.

Section-by-Section Discussion

Section 62-253 (F) Amended to add a definition of a full Reserve Officer's Training Corps (ROTC) scholarship which will clarify eligibility of ROTC scholarship recipients for the South Carolina National Guard College Assistance Program.

**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 regulation at a public hearing to be conducted by the South Carolina Commission on Higher Education on January 9, 2020, to be held in the Main Conference Room at 1122 Lady Street, Suite 300, Columbia, SC. The meeting will commence at 1:00 p.m. at which time the Commission will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Commission's agenda to be published by the Commission ten days in advance of the meeting.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Dr. Karen Woodfaulk, Director of Student Services, South Carolina Commission on Higher Education, 1122 Lady Street, Suite 300, Columbia, SC 29201. Comments must be received no later than 5:00 p.m. on December 23, 2019. Comments received shall be considered by the staff in formulating the final proposed regulation for the public hearing on January 9, 2020, as noticed above. Comments received by the



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deadline shall be submitted to the Commission in summary of public comments for consideration at the public hearing.

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

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

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

DESCRIPTION OF REGULATION: 62-250 through 62-262. South Carolina National Guard College Assistance Program.

Purpose: R.62-253 (F) is being amended to provide a definition and clarification of a full ROTC scholarship.

Legal Authority: The legal authority for R.62-253 (F) is 1976 Code Section 59-114.75.

Plan for Implementation: The proposed regulation will take effect upon approval by the South Carolina General Assembly and publication in the *State Register*. The proposed regulation will be implemented by providing the regulated community with copies of the regulation.

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

The proposed regulation is needed to provide clarification to institutional representatives who award the SCNG CAP.

### **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 allow ROTC scholarship recipients to receive the SCNG CAP up to the cost of attendance which will help recruit qualified officers to the South Carolina National Guard.

### **UNCERTAINTIES OF ESTIMATES:**

None.

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

Not applicable.

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

Not applicable.

### **Statement of Rationale:**

R.62-253 (F) is being amended to provide a definition and clarification of a full ROTC scholarship.

### **Text:**

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

Document No. 4937  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BUILDING CODES COUNCIL**  
CHAPTER 8

Statutory Authority: 1976 Code Sections 6-9-40 and 40-1-70

Article 8. International Building Code.

**Preamble:**

The South Carolina Building Codes Council proposes to amend Chapter 8, Article 8, to correct scrivener's errors in the modifications to the 2018 South Carolina Building Codes, the International Building Code.

Section-by-Section Discussion

8-800. No change.

8-801. No change.

8-802. No change.

8-803. No change.

8-804. No change.

8-805. Add "Exception".

8-806. Restore "IBC 1009.4 Elevators" from the 2015 version of the Codes, and strike the sentence "Elevators shall also comply with 3008 Occupant Evacuation Elevators." Renumber current 8-806.

8-807. Renumber. No other change.

8-808. Renumber. No other change.

8-809. Renumber. No other change.

8-810. Renumber. No other change.

A Notice of Drafting was published in the *State Register* on October 25, 2019.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on January 13, 2020. Written comments may be directed to Molly Price, Administrator, Building Codes Council, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., on December 23, 2019. If qualifying requests pursuant to Section 1-23-110(A)(3) are not timely received, the hearing will be canceled.

**Preliminary Fiscal Impact Statement:**

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

**Statement of Need and Reasonableness:**

The South Carolina Building Codes Council proposes to amend Chapter 8, Article 8, to correct scrivener's errors in the modifications to the 2018 South Carolina Building Codes, the International Building Code.

**DESCRIPTION OF REGULATION:**

Purpose: The Council proposes amending its regulations to correct two drafting errors that occurred during the adoption process. Specifically, R.8-805 should have reflected that the language added to number (5) five is an exception. Number (5) five will now read: "A Group S-1 occupancy used for the storage of upholstered furniture or mattresses where the fire area exceeds 2,500 square feet (232m). Exception: This section, when

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acceptable to the Authority Having Jurisdiction, does not apply to self-storage type facilities that are single story, fire area(s) less than 12,000 square feet, and the building is only accessible from exterior entry points and is not provided with interior hallways, spaces or corridors.” Additionally, the Council proposes to restore “IBC Section 1009.4 Elevators” in the regulations. The section appeared in the 2015 edition of the Building Codes, but during the adoption process for the 2018 Codes, was inadvertently stricken in its entirety. Upon further review of the modification requests and transcripts, the Council determined that the request and subsequent vote was to simply remove the line reading, “Elevators shall also comply with 3008 Occupant Evacuation Elevators.” The change proposed herein will correct that error.

Legal Authority: 1976 Code Sections 6-9-40 and 40-1-70.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency’s website.

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

The proposed regulations will correct scrivener’s errors in the modifications to the 2018 South Carolina Building Codes, the International Building Code.

### DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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

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

### Statement of Rationale:

The updated regulations will correct scrivener’s errors in the modifications to the 2018 South Carolina Building Codes, the International Building Code. The Council proposes to correct two drafting errors that occurred during the adoption process. Specifically, R.8-805 should have reflected that the language added to number (5) five is an exception. Number (5) five will now read: “A Group S-1 occupancy used for the storage of upholstered furniture or mattresses where the fire area exceeds 2,500 square feet (232m). Exception: This section, when acceptable to the Authority Having Jurisdiction, does not apply to self-storage type facilities that are single story, fire area(s) less than 12,000 square feet, and the building is only accessible from exterior entry points and is not provided with interior hallways, spaces or corridors.” Additionally, the Council proposes to restore “IBC Section 1009.4 Elevators” in the regulations. The section appeared in the 2015 edition of the Building Codes, but during the adoption process for the 2018 Codes, was inadvertently stricken in its entirety. Upon further review of the modification requests and transcripts, the Council determined that the request and

subsequent vote was to simply remove the line reading, "Elevators shall also comply with 3008 Occupant Evacuation Elevators." The change proposed herein will correct that error.

**Text:**

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

Document No. 4938  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BUILDING CODES COUNCIL**  
CHAPTER 8  
Statutory Authority: 1976 Code Sections 6-9-40 and 40-1-70

Article 9. International Fire Code.

**Preamble:**

The South Carolina Building Codes Council proposes to amend Chapter 8, Article 9, to correct scribes' errors in the modifications to the 2018 South Carolina Building Codes, the International Fire Code.

Section-by-Section Discussion

- 8-900. No change.
- 8-901. No change.
- 8-902. No change.
- 8-903. No change.
- 8-904. Correct capitalization in heading, add "or equal to" the section reading "Less than 50 pallets" and correct spelling of "Distance".
- 8-905. No change.
- 8-906. No change.
- 8-907. No change.
- 8-908. No change.
- 8-909. Move section labeled "Exception" to show that it only modifies number 5 in the series.
- 8-910. Restore 8-910. "IFC Section 905.3 Required installations. Standpipe systems are not required in Group R-3 occupancies", which was inadvertently deleted in the 2019 adoption process.
- 8-911. Renumber. Otherwise, no change.
- 8-912. Renumber. Otherwise, no change.
- 8-913. Renumber. Otherwise, no change.
- 8-914. Renumber. Otherwise, no change.
- 8-915. Renumber. Add "torch" to the header to read, "Use with self-contained torch assemblies."
- 8-916. Renumber. Otherwise, no change.
- 8-917. Renumber. Otherwise, no change.
- 8-918. Renumber. Otherwise, no change.
- 8-919. Renumber. Otherwise, no change.
- 8-920. Renumber. Otherwise, no change.
- 8-921. New number created by restoring 8-910 and renumbering sections that followed. Correct spelling of Fire Marshal.

A Notice of Drafting was published in the *State Register* on October 25, 2019.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on January 13, 2020. Written comments may be directed to Molly Price, Administrator, Building Codes Council, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., December 23, 2019. If qualifying requests pursuant to Section 1-23-110(A)(3) are not timely received, the hearing will be canceled.

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

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

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

The South Carolina Building Codes Council proposes to amend Chapter 8, Article 9, to correct scribes' errors in the modifications to the 2018 South Carolina Building Codes, the International Fire Code.

### **DESCRIPTION OF REGULATION:**

Purpose: The Council proposes to correct scribes' errors that occurred during the adoption process for the modifications to the 2018 Codes. In 8-904, the Council proposes correcting capitalization in the heading, adding "or equal to" to the section reading "Less than 50 pallets" and correcting the spelling of "Distance" in the chart. The Council also wishes to move the section labeled "Exception" in 8-909 to appear after number five in the series to show that it only applies to number five and not the entire section. The Council further proposes restoring IFC Section 905.3 Required installations. Standpipe systems are not required in Group R-3 occupancies." During the 2018 Code adoption process, members of the industry requested a second exception be stricken, but the prepared document indicated the entire section should be stricken. The error was caught during the publication process in 2019, and the Council wishes to correct it in the regulations. The Council also desires to add the word "torch" to the header of 8-915 so that it correctly reflects the header in the model code IFC Section 6103.2.1.6, "Use with self-contained torch assemblies." Finally, the Council wishes to correct the spelling of Fire Marshal in the prior section 8-920, to be renumbered as 8-921.

Legal Authority: 1976 Code Sections 6-9-40 and 40-1-70.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

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

The Council avers it is both reasonable and necessary to correct the scribes' errors appearing in the Code of Regulations as they do not reflect the vote of the Council or the requests of the industry in their present version.

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

There is no cost incurred by the state for the promulgation of these regulations.

### **UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning the regulations.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

These regulations will have no effect on the environment.

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

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

**Statement of Rationale:**

The updated regulations would correct scribes' errors that occurred during the adoption process for the modifications to the 2018 Codes. In 8-904, corrections would capitalize the heading, add "or equal to" to the section reading "Less than 50 pallets" and correct the spelling of "Distance" in the chart. The correction would also move the section labeled "Exception" in 8-909 to appear after number five in the series to show that it only applies to number five and not the entire section. The corrections would further restore IFC Section 905.3 Required installations. Standpipe systems are not required in Group R-3 occupancies." The corrections would also add the word "torch" to the header of 8-915 so that it correctly reflects the header in the model code IFC Section 6103.2.1.6, "Use with self-contained torch assemblies." Finally, the corrections would rectify the misspelling of Fire Marshal in the current section 8-920, to be renumbered as 8-921.

**Text:**

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

Document No. 4939  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BUILDING CODES COUNCIL**  
**CHAPTER 8**

Statutory Authority: 1976 Code Sections 6-9-40 and 40-1-70

- 8-1005. IFGC Section 413.5 Private fueling of motor vehicles.
- 8-1006. IFGC Section 505.1.1 Commercial cooking appliances vented by exhaust hoods.

**Preamble:**

The South Carolina Building Codes Council proposes to amend Chapter 8, Article 10, to correct scribes' errors in the modifications to the 2018 South Carolina Building Codes, the International Fuel Gas Code.

**Section-by-Section Discussion**

- 8-1005. Strike 413.5 in the heading and replace with 412.10.
- 8-1006. Add language appearing before Exception regarding commercial cooking appliances vented by kitchen exhaust hood system.

A Notice of Drafting was published in the *State Register* on October 25, 2019.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on January 13, 2020. Written comments

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may be directed to Molly Price, Administrator, Building Codes Council, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., December 23, 2019. If qualifying requests pursuant to Section 1-23-110(A)(3) are not timely received, the hearing will be canceled.

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

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

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

These regulations are amended to correct scrivener's errors in the modifications to the 2018 South Carolina Building Codes, the International Fuel Gas Code. The Council proposes to correct the International Fuel Gas Code section referenced in 8-1005 to reflect that it is Section 412.10 instead of 413.5. The Council further proposes to restore the text of section 505.1.1 appearing before the stated exception.

### **DESCRIPTION OF REGULATION:**

Purpose: The board is amending its regulations to correct scrivener's errors in the modifications to the 2018 South Carolina Building Codes, the International Fuel Gas Code. The Council proposes to correct the International Fuel Gas Code section referenced in 8-1005 to reflect that it is Section 412.10 instead of 413.5. The Council further proposes to restore the text of section 505.1.1 appearing before the stated exception in 8-1006.

Legal Authority: 1976 Code Sections 6-9-40 and 40-1-70.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

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

The proposed regulations will correct scrivener's errors in the modifications to the 2018 South Carolina Building Codes, the International Fuel Gas Code.

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

There is no cost incurred by the state for the promulgation of these regulations.

### **UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning the regulations.

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

These regulations will have no effect on the environment.

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

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

**Statement of Rationale :**

The updated regulations will correct scriveners' errors in the modifications to the 2018 South Carolina Building Codes, the International Fuel Gas Code. The Council proposes to correct the International Fuel Gas Code section referenced in 8-1005 to reflect that it is Section 412.10 instead of 413.5. The Council further proposes to restore the text of section 505.1.1 appearing before the stated exception in 8-1006.

**Text:**

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

Document No. 4940  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BUILDING CODES COUNCIL**  
CHAPTER 8  
Statutory Authority: 1976 Code Section 6-9-40, 6-9-50, and 6-9-55

8-1301. IMC Section 504.8.2 Duct Installation.

**Preamble:**

The South Carolina Building Codes Council proposes to amend Chapter 8, Article 13, to correct a scrivener's error in the modifications to the 2018 South Carolina Building Codes, the International Mechanical Code.  
Section-by-Section Discussion

8-1301. Strike the word "substantial."

A Notice of Drafting was published in the *State Register* on October 25, 2019.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on January 13, 2020. Written comments may be directed to Molly Price, Administrator, Building Codes Council, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., December 23, 2019. If qualifying requests pursuant to Section 1-23-110(A)(3) are not timely received, the hearing will be canceled.

**Preliminary Fiscal Impact Statement:**

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

**Statement of Need and Reasonableness:**

The South Carolina Building Codes Council proposes to amend Chapter 8, Article 13, to correct a scrivener's error in the modifications to the 2018 South Carolina Building Codes, the International Mechanical Code.

**DESCRIPTION OF REGULATION:**



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**Purpose:** The South Carolina Building Codes Council proposes to amend Chapter 8, Article 13, to correct a scrivener's error in the modifications to the 2018 South Carolina Building Codes, the International Mechanical Code. Specifically, the Council proposes to remove the word "substantial" appearing in R.8-1301.

**Legal Authority:** 1976 Code Sections 6-9-40, 6-9-50, and 6-9-55.

**Plan for Implementation:** The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

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

The South Carolina Building Codes Council proposes to amend Chapter 8, Article 13, to correct a scrivener's error in the modifications to the 2018 South Carolina Building Codes, the International Mechanical Code. Specifically, the Council proposes to remove the word "substantial" appearing in R.8-1301. Counsel for the Building Codes Council conducted a review of all promulgated regulations and compared them to the transcripts from the hearings adopting the Codes and their modifications and determined this word was included in error.

### DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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

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

### **Statement of Rationale:**

The proposed regulations will incorporate modifications to the 2018 International Mechanical Code as adopted by the South Carolina Building Codes Council.

### **Text:**

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

Document No. 4941  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BUILDING CODES COUNCIL**  
CHAPTER 8

Statutory Authority: 1976 Code Sections 6-9-40, 6-9-50, and 6-9-55

Article 12. International Residential Code.

**Preamble:**

The South Carolina Building Codes Council proposes to amend Chapter 8, Article 12, to correct scribes' errors in the modifications to the 2018 South Carolina Building Codes, the International Residential Code.

Section-by-Section Discussion

- 8-1200. No change.
- 8-1201. No change.
- 8-1202. No change.
- 8-1203. No change.
- 8-1204. No change.
- 8-1205. No change.
- 8-1206. No change.
- 8-1207. No change.
- 8-1208. No change.
- 8-1209. Add "R" before R312.2.2.
- 8-1210. Insert "fire" before sprinkler system so that the phrase reads, automatic residential fire sprinkler system.
- 8-1211. Add remaining lines of sentence omitted in prior version: "are exempt from the requirements of this exception."
- 8-1212. No change.
- 8-1213. No change.
- 8-1214. No change.
- 8-1215. No change.
- 8-1216. Insert the word, provision, before shall apply so that final sentence reads, "Where there is a conflict with this code and a locally adopted flood ordinance, the more restrictive provision shall apply."
- 8-1217. No change.
- 8-1218. Replace "Under" with "Unvented" in section heading.
- 8-1219. No change.
- 8-1220. No change.
- 8-1221. No change.
- 8-1222. No change.
- 8-1223. Correct reference to Section R802.10 by removing ".1" that 10.
- 8-1224. No change.
- 8-1225. Correct measurements to reflect superscripts.
- 8-1226. No change.
- 8-1227. No change.
- 8-1228. No change.
- 8-1229. Remove the word substantial so that the sentence reads, "Where dryer ducts are enclosed in wall or ceiling cavities, such cavities shall allow the installation without deformation" and replace the word, "same" with "seam."
- 8-1230. No change.
- 8-1231. Correct reference to IRC Section M1503.6 in the header.

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8-1232. Add number three in the series, which reads: "Not less than 10 feet (3048 mm) from mechanical air intake openings except where the exhaust opening is located not less than 3 feet (914 mm) above the air intake opening. Openings shall comply with Sections R303.5.2 and R303.6."

8-1233. No change.

8-1234. No change.

8-1235. No change.

8-1236. Add "s" to temperature.

8-1237. No change.

8-1238. No change.

8-1239. Delete "and crawl spaces" from the heading.

8-1240. No change.

8-1241. Add 4.4. The combination of the branch-circuit overcurrent device and outlet branch-circuit AFCI shall be identified as meeting the requirements for a system combination-type AFCO and shall be listed as such.

8-1242. No change.

8-1243. No change.

8-1244. No change.

A Notice of Drafting was published in the *State Register* on October 25, 2019.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on January 13, 2020. Written comments may be directed to Molly Price, Administrator, Building Codes Council, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., December 23, 2019. If qualifying requests pursuant to Section 1-23-110(A)(3) are not timely received, the hearing will be canceled.

### Preliminary Fiscal Impact Statement:

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

### Statement of Need and Reasonableness:

The South Carolina Building Codes Council proposes to amend Chapter 8, Article 12, to correct scribes' errors in the modifications to the 2018 South Carolina Building Codes, the International Residential Code.

### DESCRIPTION OF REGULATION:

Purpose: The South Carolina Building Codes Council proposes to amend Chapter 8, Article 12, to correct errors in the modifications to the 2018 South Carolina Building Codes, the International Residential Code. The scribes' errors include: adding "R" before the reference to R312.2.2 in 8-1209; adding "fire" where it was omitted from the phrase, "automatic residential fire sprinkler system" in R.8-1210; adding in the remainder of a sentence that was inadvertently omitted in the prior version ("are exempt from the requirements of this exception") in R.8-1211; adding in the word "restrictive" where it was omitted from the phrase, "the more restrictive provision shall apply" in R.8-1216; replacing "under" with "unvented" in a heading in R.8-1218; removing subsection ".1" from a cross-reference to R802.10; replacing Roman numerals with superscripts in 8-1225; removing the word "substantial" which was serving as a modifier for "deformation" and replacing the word "same" with "seam" in 8-1229; replacing a reference to IRC Section M1503.6 which was incorrectly stated as 1503.4 in 8-1231; restoring number three in a series that was inadvertently deleted, now reading, "Not less than 10 feet (3048 mm) from mechanical air intake openings except where the exhaust opening is located not less than 3 feet (914 mm) above the air intake opening. Openings shall comply with Sections R303.5.2 and R303.6." in 8-1232; adding the letter "s" to the word "temperature" in 8-1236; deleting "crawl space" from a

heading in 8-1239; restoring an inadvertently omitted section, “The combination of the branch-circuit overcurrent device and outlet branch-circuit AFCI shall be identified as meeting the requirements for a system combination-type AFCO and shall be listed as such” in 8-1241.

Legal Authority: 1976 Code Sections 6-9-40, 6-9-50, and 6-9-55.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency’s website.

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

The South Carolina Building Codes Council proposes to amend Chapter 8, Article 12, to correct scribes’ errors reflected in the modifications to the 2018 South Carolina Building Codes, the International Residential Code.

**DETERMINATION OF COSTS AND BENEFITS:**

There is no cost incurred by the state for the promulgation of these regulations.

**UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning the regulations.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

These regulations will have no effect on the environment.

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

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

**Statement of Rationale:**

The South Carolina Building Codes Council proposes to amend Chapter 8, Article 12, to correct errors reflected in the modifications to the 2018 South Carolina Building Codes, the International Residential Code. The scribes’ errors include: adding “R” before the reference to R312.2.2 in 8-1209; adding “fire” where it was omitted from the phrase, “automatic residential fire sprinkler system” in R.8-1210; adding in the remainder of a sentence that was inadvertently omitted in the prior version (“are exempt from the requirements of this exception”) in R.8-1211; adding in the word “restrictive” where it was omitted from the phrase, “the more restrictive provision shall apply” in R.8-1216; replacing “under” with “unvented” in a heading in R.8-1218; removing subsection “.1” from a cross-reference to R802.10; replacing Roman numerals with superscripts in 8-1225; removing the word “substantial” which was serving as a modifier for “deformation” and replacing the word “same” with “seam” in 8-1229; replacing a reference to IRC Section M1503.6 which was incorrectly stated as 1503.4 in 8-1231; restoring number three in a series that was inadvertently deleted, now reading, “Not less than 10 feet (3048 mm) from mechanical air intake openings except where the exhaust opening is located not less than 3 feet (914 mm) above the air intake opening. Openings shall comply with Sections R303.5.2 and R303.6.” in 8-1232; adding the letter “s” to the word “temperature” in 8-1236; deleting “crawl space” from a heading in 8-1239; restoring an inadvertently omitted section, “The combination of the branch-circuit

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overcurrent device and outlet branch-circuit AFCI shall be identified as meeting the requirements for a system combination-type AFCO and shall be listed as such” in 8-1241.

### **Text:**

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

Document No. 4942  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BUILDING CODES COUNCIL**  
CHAPTER 8

Statutory Authority: 1976 Code Sections 6-9-40 and 40-1-70

8-1101. NEC Article 90.2(B)(5) Scope.

### **Preamble:**

The South Carolina Building Codes Council proposes to amend Chapter 8, Article 11, to correct a scrivener’s error in the modifications to the 2018 South Carolina Building Codes, the 2017 Edition of the National Electrical Code.

#### Section-by-Section Discussion

8-1101. Strike “Scope” and replace with “Not Covered”.

A Notice of Drafting was published in the *State Register* on October 25, 2019.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on January 13, 2020. Written comments may be directed to Molly Price, Administrator, Building Codes Council, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., December 23, 2019. If qualifying requests pursuant to Section 1-23-110(A)(3) are not timely received, the hearing will be canceled.

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

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

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

These regulations are amended to correct a scrivener’s error in the modifications to the 2018 South Carolina Building Codes, the 2017 Edition of the National Electrical Code.

### **DESCRIPTION OF REGULATION:**

Purpose: The South Carolina Building Codes Council proposes to amend Chapter 8, Article 11, to correct a scrivener’s error in the modifications to the 2018 South Carolina Building Codes, the 2017 Edition of the National Electrical Code. Specifically, the heading of Regulation 8-1101 currently reads, “NEC Article 90.2(B)(5) Scope”. The heading for NEC Article 90.2 in the model code, however, reads “Scope” while the

heading for subsection 90.2(B) reads, "Not Covered". The Council desires to make this correction as the adopted modification is located in subsection (5) of 90.2(B).

Legal Authority: 1976 Code Sections 6-9-40 and 40-1-70.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

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

The proposed regulations will correct a scrivener's error in the modifications to the 2018 South Carolina Building Codes, the 2017 Edition of the National Electrical Code.

**DETERMINATION OF COSTS AND BENEFITS:**

There is no cost incurred by the state for the promulgation of these regulations.

**UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning the regulations.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

These regulations will have no effect on the environment.

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

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

**Statement of Rationale:**

The updated regulations are proposed to correct a scrivener's error in the modifications to the 2018 South Carolina Building Codes, the 2017 Edition of the National Electrical Code.

**Text:**

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

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Document No. 4952  
**PUBLIC SERVICE COMMISSION**  
CHAPTER 103

Statutory Authority: 1976 Code Sections 58-3-140, 58-37-60, and 58-41-20

103-811. Procedure to Employ, through Contract or Otherwise, Qualified, Independent Third-Party Consultants or Experts.

### **Preamble:**

The Public Service Commission of South Carolina proposes to add a regulation which provides a process for the Commission to engage qualified independent third-party consultants or experts. The proposed regulation is necessary to provide a documented and transparent public process for employing, through contract or otherwise, qualified independent third-party consultants or experts for the Commission. The Notice of Drafting regarding this regulation was published on September 27, 2019, in the *State Register, Volume 43, Issue 9*.

### Section-by-Section Discussion

103-811. This section, when it becomes effective, covers the Commission's procedures for hiring qualified, independent third-party consultants or experts by utilizing a Request for Proposals process.

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

Interested persons may submit written comments to the Public Service Commission, Clerk's Office, 101 Executive Center Drive, Suite 100, Columbia, South Carolina 29210. Please reference Docket Number 2019-289-A. To be considered, comments must be received no later than 4:45 p.m. on Friday, December 27, 2019. Interested members of the public and the regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Public Service Commission on Wednesday, January 29, 2020, at 2:30 p.m. in the Commission's Hearing Room, 101 Executive Center Drive, Columbia, South Carolina 29210.

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

The Commission anticipates utilizing its current resources to handle the Request for Proposals process outlined in the proposed regulation. However, the Commission anticipates incurring additional costs related to the compensation and other related costs for the employment, through contract or otherwise, of the qualified, independent third-party consultants or experts. At the time of the filing of the proposed regulation, the Commission's initial contract to hire a qualified, independent third-party consultant or expert pursuant to S.C. Code Ann. Section 58-41-20 (I) included estimated compensation of \$175,000.

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

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

DESCRIPTION OF REGULATION: 103-811. Procedure to Employ, through Contract or Otherwise, Qualified, Independent Third-Party Consultants or Experts.

Purpose: Act 62 of 2019, or the South Carolina Energy Freedom Act, was signed by Governor Henry McMaster on May 16, 2019. At least two sections of Act 62 reference the Commission's ability to hire external consultants or experts to assist in fulfilling the requirements of the law. S.C. Code Ann. Section 58-41-20 (I) states, in part, "The commission is authorized to employ, through contract or otherwise, third-party consultants or experts in carrying out its duties under this section, including, but not limited to, evaluating avoided cost rates,

methodologies, terms, calculations, and conditions under this section. The commission is exempt from complying with the State Procurement Code in the selection and hiring of a third-party consultant or expert authorized by this subsection. The commission shall engage, for each utility, a qualified independent third party to submit a report that includes the third party's independently derived conclusions as to that third party's opinion of each utility's calculation of avoided costs for purposes of proceedings conducted pursuant to this section. The qualified independent third party is subject to the same ex parte prohibitions contained in Chapter 3, Title 58 as all other parties."

Also, S.C. Code Ann. Section 58-37-60 states:

(A) The commission and the Office of Regulatory Staff are authorized to initiate an independent study to evaluate the integration of renewable energy and emerging energy technologies into the electric grid for the public interest. An integration study conducted pursuant to this section shall evaluate what is required for electrical utilities to integrate increased levels of renewable energy and emerging energy technologies while maintaining economic, reliable, and safe operation of the electricity grid in a manner consistent with the public interest. Studies shall be based on the balancing areas of each electrical utility. The commission shall provide an opportunity for interested parties to provide input on the appropriate scope of the study and also to provide comments on a draft report before it is finalized. All data and information relied on by the independent consultant in preparation of the draft study shall be made available to interested parties, subject to appropriate confidentiality protections, during the public comment period. The results of the independent study shall be reported to the General Assembly.

(B) The commission may require regular updates from utilities regarding the implementation of the state's renewable energy policies.

(C) The commission may hire or retain a consultant to assist with the independent study authorized by this section. The commission is exempt from complying with the State Procurement Code in the selection and hiring of the consultant authorized by this subsection."

The proposed regulation provides a documented procedure including, but not limited to, accepting applications from prospective consultants or experts, public interviews, and final decisions made by Commissioners related to the pool of applicants.

Legal Authority: S.C. Code Ann. Section 58-3-140, 58-37-60, and 58-41-20.

Plan for Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the *State Register*. Thereafter, the proposed regulation will provide a public and transparent process of the Commission's hiring of qualified, independent third-party consultants or experts.

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

The proposed Regulation 103-811 is needed and is reasonable as it provides a documented, transparent procedure for interested persons' awareness of how the Commission will hire qualified, independent third-party consultants or experts and how interested persons can participate in the Request for Proposals process.

**DETERMINATION OF COSTS AND BENEFITS:**

The Commission opines that it can absorb the administrative process expenditures related to the hiring of qualified, independent third-party consultants or experts. The initial estimate of \$175,000 is related to one contract executed by the Commission and a qualified, independent third-party consultant or expert hired pursuant to S.C. Code Ann. Section 58-41-20 (I).

**UNCERTAINTIES OF ESTIMATES:**

None.



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

None.

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

The regulation will have no detrimental effect on the environment or public health if the regulation is not implemented.

### **Statement of Rationale :**

The purpose for Regulation 103-811 is to add a process for the Commission to issue Request for Proposals for qualified, independent third-party consultants or experts. Adoption of this Regulation will result in a documented, public, and transparent process of the Commission's hiring of qualified, independent third-party consultants or experts. There was no scientific or technical basis relied upon in the development of this regulation.

### **Text:**

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

Document No. 4882

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

Statutory Authority: 1976 Code Section 44-56-30

61-79. Hazardous Waste Management Regulations.

**Synopsis:**

The Department of Health and Environmental Control (“Department”) proposes amending R.61-79 to adopt three final United States Environmental Protection Agency (“EPA”) rules published in the Federal Register. The EPA requires state adoption of these rules, as the rules do not revise existing standards to make them less stringent. The “Revisions to the Definition of Solid Waste, Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule,” published on May 30, 2018, at 83 FR 24664-24671, revises several recycling-related provisions associated with the definition of solid waste under Subtitle C of the Resource Conservation and Recovery Act (“RCRA”) and portions of the original rule that were vacated by the United States Court of Appeals for the D.C. Circuit. The “Confidentiality Determinations for Hazardous Waste Export and Import Documents,” published on December 26, 2017, at 82 FR 60894-60901, amends existing export and import hazardous waste regulations by applying a confidentiality determination for documents related to the export, import, and transit of hazardous waste, and export of excluded cathode ray tubes. The “Hazardous Waste Electronic Manifest System User Fee; Final Rule,” published on January 3, 2018, at 83 FR 420-462, establishes the methodology the EPA uses to determine and revise user fees applicable to the electronic and paper manifest to be submitted to the national Hazardous Waste Electronic Manifest System that became operational nationwide on June 30, 2018. Adoption of these rules is required to comply with federal law and will bring R.61-79 into conformity with the federal regulations.

The Administrative Procedures Act, S.C. Code Ann. Section 1-23-120(H)(1), exempted these amendments from General Assembly review, as the Department promulgates the amendments for compliance with federal law.

The Department had a Notice of Drafting published in the March 22, 2019, *South Carolina State Register*.

**Instructions:**

Amend R.61-79 pursuant to each individual instruction provided with the text of the amendments below.

**Text:**

61-79. Hazardous Waste Management Regulations.

Statutory Authority: 1976 Code Ann. Section 44-56-30

**Revise 61-79.260. Table of Contents, Subpart A to read:**

## Subpart A. General

260.1. Purpose, scope, and applicability.

260.2. Availability of information; confidentiality of information.

260.3. Use of number and gender.

260.4. Manifest copy submission requirements for certain interstate waste shipments.

260.5. Applicability of electronic manifest system and user fee requirements to facilities receiving state-only regulated waste shipments.

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### Revise 61-79.260.2(b) to read:

(b) Except as provided under paragraphs (c) and (d) of this section, any person who submits information to the Department in accordance with R.61-79.260 through R.61-79.266 and R.61-79.268 may assert a claim of business confidentiality covering part or all of that information by following the procedures set forth in S.C. Code Ann Sections 30-4-10 et seq. and 40 CFR 2.203(b). Information covered by such a claim will be disclosed by the Department only to the extent, and by means of the provisions contained in S.C. Code Ann Sections 30-4-10 et seq., and by means of the procedures, set forth in 40 CFR part 2, subpart B of this chapter.

### Add 61-79.260.2(d) to read:

(d)(1) After June 26, 2018, no claim of business confidentiality may be asserted by any person with respect to information contained in cathode ray tube export documents prepared, used and submitted under sections 261.39(a)(5) and 261.41(a), and with respect to information contained in hazardous waste export, import, and transit documents prepared, used and submitted under sections 262.82, 262.83, 262.84, 263.20, 264.12, 264.71, 265.12, and 265.71, whether submitted electronically into EPA's Waste Import Export Tracking System or in paper format.

(2) EPA will make any cathode ray tube export documents prepared, used and submitted under sections 261.39(a)(5) and 261.41(a), and any hazardous waste export, import, and transit documents prepared, used and submitted under sections 262.82, 262.83, 262.84, 263.20, 264.12, 264.71, 265.12, and 265.71, available to the public under this section when these electronic or paper documents are considered by EPA to be final documents. These submitted electronic and paper documents related to hazardous waste exports, imports and transits and cathode ray tube exports are considered by EPA to be final documents on March 1 of the calendar year after the related cathode ray tube exports or hazardous waste exports, imports, or transits occur.

### Add 61-79.260.4. to read:

#### **260.4. Manifest copy submission requirements for certain interstate waste shipments.**

(a) In any case in which the state in which waste is generated, or the state in which waste will be transported to a designated facility, requires that the waste be regulated as a hazardous waste or otherwise be tracked through a hazardous waste manifest, the designated facility that receives the waste shall, regardless of the state in which the facility is located:

- (1) Complete the facility portion of the applicable manifest;
- (2) Sign and date the facility certification;
- (3) Submit to the e-Manifest system a final copy of the manifest for data processing purposes; and

(4) Pay the appropriate per manifest fee to EPA for each manifest submitted to the e-Manifest system, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in R.61-79.264 subpart FF.

### Add 61-79.260.5. to read:

#### **260.5. Applicability of electronic manifest system and user fee requirements to facilities receiving state-only regulated waste shipments.**

(a) For purposes of this section, "state-only regulated waste" means:

- (1) A non-RCRA waste that a state regulates more broadly under its state regulatory program, or

(2) A RCRA hazardous waste that is federally exempt from manifest requirements, but not exempt from manifest requirements under state law.

(b) In any case in which a state requires a RCRA manifest to be used under state law to track the shipment and transportation of a state-only regulated waste to a receiving facility, the facility receiving such a waste shipment for management shall:

(1) Comply with the provisions of sections 264.71 (use of the manifest) and 264.72 (manifest discrepancies); and

(2) Pay the appropriate per manifest fee to EPA for each manifest submitted to the e-Manifest system, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in R.61-79.264 subpart FF.

**Revise 61-79.260.31(c)(3) through (c)(6) to read:**

(3) Whether the partially-reclaimed material is a viable substitute for a product or intermediate produced from virgin or raw materials which is used in subsequent production steps;

(4) Whether there is a market for partially-reclaimed material as demonstrated by known customer(s) who are further reclaiming the material (e.g., records of sales and/or contracts and evidence of subsequent use, such as bills of lading); and

(5) Whether the partially-reclaimed material is handled to minimize loss.

**Revise 61-79.260.42(a) to read:**

(a) Facilities managing hazardous secondary materials under sections 260.30, 261.4(a)(23), 261.4(a)(24), 261.4(a)(25), or 261.4(a)(27) must send a notification prior to operating under the regulatory provision and by March 1 of each even-numbered year thereafter to the Department using EPA Form 8700-12 that includes the following information:

(1) The name, address, and EPA ID number (if applicable) of the facility;

(2) The name and telephone number of a contact person;

(3) The NAICS code of the facility;

(4) The regulation under which the hazardous secondary materials will be managed;

(5) For reclaimers and intermediate facilities managing hazardous secondary materials in accordance with section 261.4(a)(24) or (25), whether the reclaimer or intermediate facility has financial assurance (not applicable for persons managing hazardous secondary materials generated and reclaimed under the control of the generator);

(6) When the facility began or expects to begin managing the hazardous secondary materials in accordance with the regulation;

(7) A list of hazardous secondary materials that will be managed according to the regulation (reported as the EPA hazardous waste numbers that would apply if the hazardous secondary materials were managed as hazardous wastes);

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(8) For each hazardous secondary material, whether the hazardous secondary material, or any portion thereof, will be managed in a land-based unit;

(9) The quantity of each hazardous secondary material to be managed annually; and

(10) The certification (included in EPA Form 8700-12) signed and dated by an authorized representative of the facility.

### **Revise 61-79.260.43(a) to read:**

(a) Recycling of hazardous secondary materials for the purpose of the exclusions or exemptions from the hazardous waste regulations must be legitimate. Hazardous secondary material that is not legitimately recycled is discarded material and is a solid waste. In determining if their recycling is legitimate, persons must address all the requirements of this paragraph and must consider the requirements of paragraph (b) of this section.

### **Revise 61-79.260.43(b) to read:**

(b) The following factor must be considered in making a determination as to the overall legitimacy of a specific recycling activity.

(1) The product of the recycling process does not:

(i) contain significant concentrations of any hazardous constituents found in R.61-79.261 appendix VIII that are not found in analogous products; or

(ii) contain concentrations of hazardous constituents found in R.61-79.264 appendix VIII at levels that are significantly elevated from those found in analogous products, or

(iii) exhibit a hazardous characteristic (as defined in R.61-79.261 subpart C) that analogous products do not exhibit.

(2) In making a determination that a hazardous secondary material is legitimately recycled, persons must evaluate all factors and consider legitimacy as a whole. If, after careful evaluation of these considerations, the factor in this paragraph is not met, then this fact may be an indication that the material is not legitimately recycled. However, the factor in this paragraph does not have to be met for the recycling to be considered legitimate. In evaluating the extent to which this factor is met and in determining whether a process that does not meet this factor is still legitimate, persons can consider exposure from toxics in the product, the bioavailability of the toxics in the product and other relevant considerations.

### **Revise 61-79.261.2(a)(2)(ii) to remove and reserve:**

(ii) [Reserved]

### **Revise 61-79.261.39(a)(5)(iv) to read:**

(iv) EPA will provide a complete notification to the receiving country and any transit countries. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of paragraph (a)(5)(i) of this section.

### **Remove Appendix from 61-79.262. Table of Contents:**

**Revise 61-79.262.20(a)(1) and (2) to read:**

(a)(1) A generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, and disposal facility that offers for transport a rejected hazardous waste load, must prepare a Manifest (OMB Control number 2050-0039) on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A.

(2) The revised manifest form and procedures in sections 260.10, 261.7, 262.20, 262.21, 262.27, 262.32, 262.54, and 262.60 shall not apply until September 5, 2006. The manifest form and procedures in sections 260.10, 261.7, 262.20, 262.21, 262.32, 262.34, 262.54, and 262.60, edition revised as of July 1, 2004, shall be applicable until September 5, 2006.

**Revise 61-79.262.21(f)(5) to read:**

(5) The manifest and continuation sheet must be printed as five (5) copy forms. Copy-to-copy registration must be exact within 1/32nd of an inch. Handwritten and typed impressions on the form must be legible on all five (5) copies. Copies must be bound together by one or more common stubs that reasonably ensure that they will not become detached inadvertently during normal use.

**Revise 61-79.262.21(f)(6)(i) through (vi) to read:**

- (i) Page 1: (top copy): "Designated facility to EPA's e-Manifest system";
- (ii) Page 2: "Designated facility to generator";
- (iii) Page 3: "Designated facility copy";
- (iv) Page 4: "Transporter copy";
- (v) Page 5 (bottom copy): "Generator's initial copy".

**Revise 61-79.262.21(f)(7) to read:**

(7) The instructions for the manifest form (EPA Form 8700-22) and the manifest continuation sheet (EPA Form 8700-22A) shall be printed in accordance with the content that is currently approved under OMB Control Number 2050-0039 and published to the e-Manifest program's website. The instructions must appear legibly on the back of the copies of the manifest and continuation sheet as provided in this paragraph (f). The instructions must not be visible through the front of the copies when photocopied or faxed.

- (i) Manifest EPA Form 8700-22:
  - (A) The "Instructions for Generators" on Copy 5;
  - (B) The "Instructions for International Shipment Block" and "Instructions for Transporters" on Copy 4; and
  - (C) The "Instructions for Treatment, Storage, and Disposal Facilities" on Copy 3.
- (ii) Manifest Form 8700-22A:
  - (A) The "Instructions for Generators" on Copy 5;
  - (B) The "Instructions for Transporters" on Copy 4; and

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(C) The "Instructions for Treatment, Storage, and Disposal Facilities" on Copy 3.

### **Add 61-79.262.21(f)(8) to read:**

(8) The designated facility copy of each manifest and continuation sheet must include in the bottom margin the following warning in prominent font: "If you received this manifest, you have responsibilities under the e-Manifest Act. See instructions on reverse side."

### **Revise 61-79.262.24(c) to read:**

(c) Restriction on use of electronic manifests. A generator may use an electronic manifest for the tracking of waste shipments involving any RCRA hazardous waste only if it is known at the time the manifest is originated that all waste handlers named on the manifest participate in the use of the electronic manifest system, except that:

(1) A generator may sign by hand and retain a paper copy of the manifest signed by hand by the initial transporter, in lieu of executing the generator copy electronically, thereby enabling the transporter and subsequent waste handlers to execute the remainder of the manifest copies electronically.

(2) [Reserved]

### **Revise 61-79.262.24(e) to read:**

(e) Special procedures when electronic manifest is unavailable. If a generator has prepared an electronic manifest for a hazardous waste shipment, but the electronic manifest system becomes unavailable for any reason prior to the time that the initial transporter has signed electronically to acknowledge the receipt of the hazardous waste from the generator, then the generator must obtain and complete a paper manifest and if necessary, a continuation sheet (EPA Forms 8700-22 and 8700-22A) in accordance with the manifest instructions, and use these paper forms from this point forward in accordance with the requirements of section 262.23.

### **Remove 61-79.262.24(g) and reserve:**

(g) [Reserved]

### **Add 61-79.262.24(h) to read:**

(h) Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. Generators may participate electronically in the post-receipt data corrections process by following the process described in section 264.71(l), which applies to corrections made to either paper or electronic manifest records.

### **Remove 61-79 Appendix to Part 262:**

### **Remove 61-79.263.20(a)(8) and reserve:**

(8) [Reserved]

### **Add 61-79.263.20(a)(9) to read:**

(9) Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. Transporters may participate electronically in the

post-receipt data corrections process by following the process described in section 264.71(l), which applies to corrections made to either paper or electronic manifest records.

**Revise 61-79.263.21(a) to read:**

(a) Except as provided in paragraph (b) of this section, the transporter must deliver the entire quantity of hazardous waste which he or she has accepted from a generator or a transporter to:

**Revise 61-79.263.21(b) to read:**

(b)(1) Emergency condition. If the hazardous waste cannot be delivered in accordance with paragraph (a)(1), (2), or (4) of this section because of an emergency condition other than rejection of the waste by the designated facility or alternate designated facility, then the transporter must contact the generator for further instructions and must revise the manifest according to the generator's instructions.

(2) Transporters without agency authority. If the hazardous waste is not delivered to the next designated transporter in accordance with paragraph (a)(3) of this section, and the current transporter is without contractual authorization from the generator to act as the generator's agent with respect to transporter additions or substitutions, then the current transporter must contact the generator for further instructions prior to making any revisions to the transporter designations on the manifest. The current transporter may thereafter make such revisions if:

(i) The hazardous waste is not delivered in accordance with paragraph (a)(3) of this section because of an emergency condition; or

(ii) The current transporter proposes to change the transporter(s) designated on the manifest by the generator, or to add a new transporter during transportation, to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety; and

(iii) The generator authorizes the revision.

(3) Transporters with agency authority. If the hazardous waste is not delivered to the next designated transporter in accordance with paragraph (a)(3) of this section, and the current transporter has authorization from the generator to act as the generator's agent, then the current transporter may change the transporter(s) designated on the manifest, or add a new transporter, during transportation without the generator's prior, explicit approval, provided that:

(i) The current transporter is authorized by a contractual provision that provides explicit agency authority for the transporter to make such transporter changes on behalf of the generator;

(ii) The transporter enters in Item 14 of each manifest for which such a change is made, the following statement of its agency authority: "Contract retained by generator confers agency authority on initial transporter to add or substitute additional transporters on generator's behalf"; and

(iii) The change in designated transporters is necessary to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety.

(4) Generator liability. The grant by a generator of authority to a transporter to act as the agent of the generator with respect to changes to transporter designations under paragraph (b)(3) of this section does not affect the generator's liability or responsibility for complying with any applicable requirement under this chapter, or grant any additional authority to the transporter to act on behalf of the generator.



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### Add 61-79.263.21(c) to read:

(c) If hazardous waste is rejected by the designated facility while the transporter is on the facility's premises, then the transporter must obtain the following:

(1) For a partial load rejection or for regulated quantities of container residues, a copy of the original manifest that includes the facility's date and signature, and the Manifest Tracking Number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the discrepancy block of the original manifest. The transporter must retain a copy of this manifest in accordance with section 263.22, and give the remaining copies of the original manifest to the rejecting designated facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter must obtain a new manifest to accompany the shipment, and the new manifest must include all of the information required in sections 264.72(e)(1) through (6) or (f)(1) through (6) or 265.72(e)(1) through (6) or (f)(1) through (6).

(2) For a full load rejection that will be taken back by the transporter, a copy of the original manifest that includes the rejecting facility's signature and date attesting to the rejection, the description of the rejection in the discrepancy block of the manifest, and the name, address, phone number, and Identification Number for the alternate facility or generator to whom the shipment must be delivered. The transporter must retain a copy of the manifest in accordance with section 263.22, and give a copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter must obtain a new manifest for the shipment and comply with sections 264.72(e)(1) through (6) or 265.72(e)(1) through (6).

### Revise 61-79.264.71(a)(2) to read:

(2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or his or her agent must:

- (i) Sign and date each copy of the manifest;
- (ii) Note any discrepancies (as defined in section 264.72(a)) on each copy of the manifest;
- (iii) Immediately give the transporter at least one (1) copy of the manifest;
- (iv) Within thirty (30) days of delivery, send a copy (Page 2) of the manifest to the generator;
- (v) Paper manifest submission requirements are:

(A) Options for compliance on June 30, 2018. Beginning on June 30, 2018, send the top copy (Page 1) of any paper manifest and any paper continuation sheet to the e-Manifest system for purposes of data entry and processing, or in lieu of submitting the paper copy to EPA, the owner or operator may transmit to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or both a data file and image file corresponding to Page 1 of the manifest and any continuation sheet, within thirty (30) days of the date of delivery. Submissions of copies to the e-Manifest system shall be made at the mailing address or electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, EPA will not accept mailed paper manifests from facilities for processing in e-Manifest.

(B) Options for compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to submit the top copy (Page 1) of the paper manifest and any paper continuation sheet to the e-Manifest system for purposes of data entry and processing may be met by the owner or operator only by transmitting to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the EPA system both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within

thirty (30) days of the date of delivery. Submissions of copies to the e-Manifest system shall be made to the electronic mail/submission address specified at the e-Manifest program website's directory of services; and

**Revise 61-79.264.71(j) to read:**

(j) Imposition of user fee for electronic manifest use.

(1) As prescribed in section 264.1311, and determined in section 264.1312, an owner or operator who is a user of the electronic manifest system shall be assessed a user fee by EPA for the submission and processing of each electronic and paper manifest. EPA shall update the schedule of user fees and publish them to the user community, as provided in section 264.1313.

(2) An owner or operator subject to user fees under this section shall make user fee payments in accordance with the requirements of section 264.1314, subject to the informal fee dispute resolution process of section 264.1316, and subject to the sanctions for delinquent payments under section 264.1315.

**Add 61-79.264.71(l) to read:**

(l) Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) shown on the manifest.

(1) Interested persons must make all corrections to manifest data by electronic submission, either by directly entering corrected data to the web-based service provided in e-Manifest for such corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.

(2) Each correction submission must include the following information:

(i) The Manifest Tracking Number and date of receipt by the facility of the original manifest(s) for which data are being corrected;

(ii) The item number(s) of the original manifest that is the subject of the submitted correction(s); and

(iii) For each item number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.

(3) Each correction submission shall include a statement that the person submitting the corrections certifies that to the best of his or her knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete:

(i) The certification statement must be executed with a valid electronic signature; and

(ii) A batch upload of data corrections may be submitted under one certification statement.

(4) Upon receipt by the system of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.

(5) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the system, certified by the respondent as specified in paragraph (l)(3) of this section, and with notice of the corrections to other interested persons shown on the manifest.

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### **Revise 61-79.264.1086(c)(4)(i) to read:**

(i) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within twenty-four (24) hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in section 261.7(b)), the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the subpart CC container standards). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest (EPA Forms 8700-22 and 8700-22A), as required under subpart E of this part, at section 264.71. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of paragraph (c)(4)(iii) of this section.

### **Revise 61-79.264.1086(d)(4)(i) to read:**

(i) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within twenty-four (24) hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in section 261.7(b)), the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the subpart CC container standards). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest (EPA Forms 8700-22 and 8700-22A), as required under subpart E of this part, at section 264.71. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of paragraph (d)(4)(iii) of this section.

### **Add Subpart FF to 61-79.264. Table of Contents to read:**

#### Subpart FF. Fees for the Electronic Hazardous Waste Manifest Program

- 264.1300. Applicability.
- 264.1310. Definitions applicable to this subpart.
- 264.1311. Manifest transactions subject to fees.
- 264.1312. User fee calculation methodology.
- 264.1313. User fee revisions.
- 264.1314. How to make user fee payments.
- 264.1315. Sanctions for delinquent payments.
- 264.1316. Informal fee dispute resolution.

### **Add 61-79.264 Subpart FF to read:**

#### **SUBPART FF: Fees for the Electronic Hazardous Waste Manifest Program**

##### **264.1300. Applicability.**

(a) This subpart prescribes:

(1) The methodology by which EPA will determine the user fees which owners or operators of facilities must pay for activities and manifest related services provided by EPA through the development and operation of the electronic hazardous waste manifest system (e-Manifest system); and

(2) The process by which EPA will revise e-Manifest system fees and provide notice of the fee schedule revisions to owners or operators of facilities.

(b) The fees determined under this subpart apply to owners or operators of facilities whose activities receiving, rejecting, or managing federally- or state-regulated hazardous wastes or other materials bring them within the definition of “user of the electronic manifest system” under section 260.10.

#### **264.1310. Definitions applicable to this subpart.**

The following definitions apply to this subpart:

“**Consumer price index**” means the consumer price index for all U.S. cities using the “U.S. city average” area, “all items” and “not seasonally adjusted” numbers calculated by the Bureau of Labor Statistics in the Department of Labor.

“**Cross Media Electronic Reporting Rule (CROMERR) costs**” are the sub-category of operations and maintenance costs that are expended by EPA in implementing electronic signature, user registration, identity proofing, and copy of record solutions that meet EPA’s electronic reporting regulations as set forth in the CROMERR as codified at 40 CFR part 3.

“**Electronic manifest submissions**” means manifests that are initiated electronically using the electronic format supported by the e-Manifest system, and that are signed electronically and submitted electronically to the e-Manifest system by facility owners or operators to indicate the receipt or rejection of the wastes identified on the electronic manifest. Electronic manifest submissions include the hybrid or mixed paper/electronic manifests authorized under section 262.24(c)(1).

“**EPA program costs**” mean the Agency’s intramural and non-information technology extramural costs expended in the design, development and operations of the e-Manifest system, as well as in regulatory development activities supporting e-Manifest, in conducting its capital planning, project management, oversight and outreach activities related to e-Manifest, in conducting economic analyses supporting e-Manifest, and in establishing the System Advisory Board to advise EPA on the system. Depending on the date on which EPA program costs are incurred, these costs may be further classified as either system setup costs or operations and maintenance costs.

“**Help desk costs**” mean the costs incurred by EPA or its contractors to operate the e-Manifest Help Desk, which EPA will establish to provide e-Manifest system users with technical assistance and related support activities.

“**Indirect costs**” mean costs not captured as marginal costs, system setup costs, or operations and maintenance costs, but that are necessary to capture because of their enabling and supporting nature, and to ensure full cost recovery. Indirect costs include, but are not limited to, such cost items as physical overhead, maintenance, utilities, and rents on land, buildings, or equipment. Indirect costs also include the EPA costs incurred from the participation of EPA offices and upper management personnel outside of the lead program office responsible for implementing the e-Manifest program.

“**Manifest submission type**” means the type of manifest submitted to the e-Manifest system for processing, and includes electronic manifest submissions and paper manifest submissions.

“**Marginal labor costs**” mean the human labor costs incurred by staff operating the paper manifest processing center in conducting data key entry, quality assurance (QA), scanning, copying, and other manual or clerical functions necessary to process the data from paper manifest submissions into the e-Manifest system’s data repository.

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**“Operations and maintenance costs”** mean all system related costs incurred by EPA or its contractors after the activation of the e-Manifest system. Operations and maintenance costs include the costs of operating the electronic manifest information technology system and data repository, CROMERR costs, help desk costs, EPA program costs incurred after e-Manifest system activation, and the costs of operating the paper manifest processing center, other than the paper processing center’s marginal labor costs.

**“Paper manifest submissions”** mean submissions to the paper processing center of the e-Manifest system by facility owners or operators, of the data from the designated facility copy of a paper manifest, EPA Form 8700-22, or a paper Continuation Sheet, EPA Form 8700-22A. Such submissions may be made by mailing the paper manifests or continuation sheets, by submitting image files from paper manifests or continuation sheets in accordance with section 264.1311(b), or by submitting both an image file and data file in accordance with the procedures of section 264.1311(c).

**“System setup costs”** mean all system related costs, intramural or extramural, incurred by EPA prior to the activation of the e-Manifest system. Components of system setup costs include the procurement costs from procuring the development and testing of the e-Manifest system, and the EPA program costs incurred prior to e-Manifest system activation.

### **264.1311. Manifest transactions subject to fees.**

(a) Per manifest fee. Fees shall be assessed on a per manifest basis for the following manifest submission transactions:

(1) The submission of each electronic manifest that is electronically signed and submitted to the e-Manifest system by the owners or operators of receiving facilities, with the fee assessed at the applicable rate for electronic manifest submissions;

(2) The submission of each paper manifest submission to the paper processing center signed by owners or operators of receiving facilities, with the fee assessed according to whether the manifest is submitted to the system by mail, by the upload of an image file, or by the upload of a data file representation of the paper manifest; and

(3) The submission of copies of return shipment manifests by facilities that are rejecting hazardous wastes and returning hazardous wastes under return manifests to the original generator. This fee is assessed for the processing of the return shipment manifest(s), and is assessed at the applicable rate determined by the method of submission. The submission shall also include a copy of the original signed manifest showing the rejection of the wastes.

(b) Image file uploads from paper manifests. Receiving facilities may submit image file uploads of completed, ink-signed manifests in lieu of submitting mailed paper forms to the e-Manifest system. Such image file upload submissions may be made for individual manifests received by a facility or as a batch upload of image files from multiple paper manifests received at the facility:

(1) The image file upload must be made in an image file format approved by EPA and supported by the e-Manifest system; and

(2) At the time of submission of an image file upload, a responsible representative of the receiving facility must make a CROMERR compliant certification that to the representative’s knowledge or belief, the submitted image files are accurate and complete representations of the facility’s received manifests, and that the facility acknowledges that it is obligated to pay the applicable per manifest fee for each manifest included in the submission.

(c) Data file uploads from paper manifests. Receiving facilities may submit data file representations of completed, ink-signed manifests in lieu of submitting mailed paper forms or image files to the e-Manifest system. Such data file submissions from paper manifests may be made for individual manifests received by a facility or as a batch upload of data files from multiple paper manifests received at the facility.

(1) The data file upload must be made in a data file format approved by EPA and supported by the e-Manifest system;

(2) The receiving facility must also submit an image file of each manifest that is included in the individual or batch data file upload; and

(3) At the time of submission of the data file upload, a responsible representative of the receiving facility must make a CROMERR compliant certification that to the representative's knowledge or belief, the data and images submitted are accurate and complete representations of the facility's received manifests, and that the facility acknowledges that it is obligated to pay the applicable per manifest fee for each manifest included in the submission.

**264.1312. User fee calculation methodology.**

(a) The fee calculation formula or methodology that EPA will use initially to determine per manifest fees is as follows:

$$Fee_i = (\text{System Setup Cost} / [\text{Years} \times N_i]) + (\text{Marginal Cost}_i + [\text{O\&M Cost} / N_i]) \times (1 + \text{Indirect Cost Factor})$$

$$\text{System Setup Cost} = \text{Procurement Cost} + \text{EPA Program Cost}$$

$$\text{O\&M Cost} = \text{Electronic System O\&M Cost} + \text{Paper Center O\&M Cost} + \text{Help Desk Cost} + \text{EPA Program Cost} + \text{CROMERR Cost} + \text{LifeCycle Cost to Modify or Upgrade eManifest System Related Services}$$

Where  $Fee_i$  represents the per manifest fee for each manifest submission type "i" and  $N_i$  refers to the total number of manifests completed in a year.

(b)(1) If after four (4) years of system operations, electronic manifest usage does not equal or exceed seventy-five (75) percent of total manifest usage, EPA may transition to the following formula or methodology to determine per manifest fees:

$$Fee_i = (\text{System Setup Cost} / [\text{Years} \times N_i]) + (\text{Marginal Cost}_i + [\text{O\&M}_i \text{ Cost} / N_i]) \times (1 + \text{Indirect Cost Factor})$$

$$\text{System Setup Cost} = \text{Procurement Cost} + \text{EPA Program Cost}$$

$$\text{O\&M}_{\text{fully electronic}} \text{ Cost} = \text{Electronic System O\&M Cost} + \text{Help Desk Cost} + \text{EPA Program Cost} + \text{CROMERR Cost} + \text{LifeCycle Cost to Modify or Upgrade eManifest System Related Services}$$

$$\text{O\&M}_{\text{all other}} \text{ Cost} = \text{Electronic System O\&M Cost} + \text{Paper Center O\&M Cost} + \text{Help Desk Cost} + \text{EPA Program Cost} + \text{CROMERR Cost} + \text{LifeCycle Cost to Modify or Upgrade eManifest System Related Services}$$

Where  $N_i$  refers to the total number of one (1) of the four (4) manifest submission types "i" completed in a year and  $O\&M_i \text{ Cost}$  refers to the differential O&M Cost for each manifest submission type "i."

(2) At the completion of four (4) years of system operations, EPA shall publish a notice:

(i) Stating the date upon which the fee formula set forth in paragraph (b)(1) of this section shall become effective; or

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(ii) Stating that the fee formula in paragraph (b)(1) of this section shall not go into effect under this section, and that the circumstances of electronic manifest adoption and the appropriate fee response shall be referred to the System Advisory Board for the Board's advice.

### 264.1313. User fee revisions.

(a) Revision schedule.

(1) EPA will revise the fee schedules for e-Manifest submissions and related activities at two-year intervals, by utilizing the applicable fee calculation formula prescribed in section 264.1312 and the most recent program cost and manifest usage numbers.

(2) The fee schedules will be published to users through the e-Manifest program website by July 1 of each odd numbered calendar year, and will cover the two (2) fiscal years beginning on October 1 of that year and ending on September 30 of the next odd numbered calendar year.

(b) Inflation adjuster. The second year of each two-year fee schedule shall be adjusted for inflation by using the following adjustment formula:

$$Fee_{iYear2} = Fee_{iYear1} \times (CPI_{Year2-2}/CPI_{Year2-1})$$

Where:

$Fee_{iYear2}$  is the Fee for each type of manifest submission "i" in Year 2 of the fee cycle;

$Fee_{iYear1}$  is the Fee for each type of manifest submission "i" in Year 1 of the fee cycle; and

$CPI_{Year2-2}/CPI_{Year2-1}$  is the ratio of the CPI published for the year two (2) years prior to Year 2 to the CPI for the year one (1) year prior to Year 2 of the cycle.

(c) Revenue recovery adjusters. The fee schedules published at two-year intervals under this section shall include an adjustment to recapture revenue lost in the previous two-year fee cycle on account of imprecise estimates of manifest usage. This adjustment shall be calculated using the following adjustment formula to calculate a revenue recapture amount which will be added to O&M Costs in the fee calculation formula of section 264.1312:

$$Revenue\ Recapture_i = (N_{iYear1} + N_{iYear2})_{Actual} - (N_{iYear1} + N_{iYear2})_{Est} \times Fee_{i(Ave)}$$

Where:

$Revenue\ Recapture_i$  is the amount of fee revenue recaptured for each type of manifest submission "i;"

$(N_{iYear1} + N_{iYear2})_{Actual} - (N_{iYear1} + N_{iYear2})_{Est}$  is the difference between actual manifest numbers submitted to the system for each manifest type during the previous two-year cycle, and the numbers estimated when we developed the previous cycle's fee schedule; and

$Fee_{i(Ave)}$  is the average fee charged per manifest type over the previous two-year cycle.

**264.1314. How to make user fee payments.**

(a) All fees required by this subpart shall be paid by the owners or operators of the receiving facility in response to an electronic invoice or bill identifying manifest-related services provided to the user during the previous month and identifying the fees owed for the enumerated services.

(b) All fees required by this subpart shall be paid to EPA by the facility electronically in U.S. dollars, using one of the electronic payment methods supported by the Department of the Treasury’s pay.gov online electronic payment service, or any applicable additional online electronic payment service offered by the Department of Treasury.

(c) All fees for which payments are owed in response to an electronic invoice or bill must be paid within thirty (30) days of the date of the invoice or bill.

**264.1315. Sanctions for delinquent payments.**

(a) Interest. In accordance with 31 U.S.C. 3717(a)(1), delinquent e-Manifest user fee accounts shall be charged a minimum annual rate of interest equal to the average investment rate for Treasury tax and loan accounts (Current Value of Funds Rate or CVFR) for the twelve-month period ending September 30 of each year, rounded to the nearest whole percent.

(1) E-Manifest user fee accounts are delinquent if the accounts remain unpaid after the due date specified in the invoice or other notice of the fee amount owed.

(2) Due dates for invoiced or electronically billed fee amounts shall be thirty (30) days from the date of the electronic invoice or bill.

(b) Financial penalty. In accordance with 31 U.S.C. 3717(e), e-Manifest user fee accounts that are more than ninety (90) days past due (i.e., not paid by date one hundred twenty (120) days from date of invoice) shall be charged an additional penalty of six (6) percent per year assessed on any part of the debt that is past due for more than ninety (90) days, plus any applicable handling charges.

(c) Compliance with manifest perfection requirement. A manifest is fully perfected when:

(1) The manifest has been submitted by the owner or operator of a receiving facility to the e-Manifest system, as either an electronic submission or a paper manifest submission; and

(2) All user fees arising from the submission of the manifest have been fully paid.

**264.1316. Informal fee dispute resolution.**

(a) Users of e-Manifest services that believe their invoice or charges to be in error must present their claims for fee dispute resolution informally using the process described in this section.

(b) Users asserting a billing dispute claim must first contact the system’s billing representatives by phone or email at the phone number or email address provided for this purpose on the e-Manifest program’s website or other customer services directory.

(1) The fee dispute claimant must provide the system’s billing representatives with information identifying the claimant and the invoice(s) that are affected by the dispute, including:

(i) The claimant’s name, and the facility at which the claimant is employed;



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(ii) The EPA Identification Number of the affected facility;

(iii) The date, invoice number, or other information to identify the particular invoice(s) that is the subject of the dispute; and

(iv) A phone number or email address where the claimant can be contacted.

(2) The fee dispute claimant must provide the system's billing representatives with sufficient supporting information to identify the nature and amount of the fee dispute, including:

(i) If the alleged error results from the types of manifests submitted being inaccurately described in the invoice, the correct description of the manifest types that should have been billed;

(ii) If the alleged error results from the number of manifests submitted being inaccurately described in the invoice, the correct description of the number of manifests that should have been billed;

(iii) If the alleged error results from a mathematical error made in calculating the amount of the invoice, the correct fee calculations showing the corrected fee amounts; and

(iv) Any other information from the claimant that explains why the invoiced amount is in error and what the fee amount invoiced should be if corrected.

(3) EPA's system billing representatives must respond to billing dispute claims made under this section within ten (10) days of receipt of a claim. In response to a claim, the system's billing representative will:

(i) State whether the claim is accepted or rejected, and if accepted, the response will indicate the amount of any fee adjustment that will be refunded or credited to the facility; and

(ii) If a claim is rejected, then the response shall provide a brief statement of the reasons for the rejection of the claim and advise the claimant of their right to appeal the claim to the Office Director for the Office of Resource Conservation and Recovery.

(c) Fee dispute claimants that are not satisfied by the response to their claim from the system's billing representatives may appeal their claim and initial decision to the Office Director for the Office of Resource Conservation and Recovery.

(1) Any appeal from the initial decision of the system's billing representatives must be taken within ten (10) days of the initial decision of the system's billing representatives under paragraph (b) of this section.

(2) The claimant shall provide the Office Director with the claim materials submitted to the system's billing representatives, the response provided by the system's billing representatives to the claim, and a brief written statement by the claimant explaining the nature and amount of the billing error, explaining why the claimant believes the decision by the system's billing representatives is in error, and why the claimant is entitled to the relief requested on its appeal.

(3) The Office Director shall review the record presented to him or her on an appeal under this paragraph (c), and shall determine whether the claimant is entitled to relief from the invoice alleged to be in error, and if so, shall state the amount of the recalculated invoice and the amount of the invoice to be adjusted.

(4) The decision of the Office Director on any appeal brought under this section is final and non-reviewable.

**Revise 61-79.265.71(a)(2) to read:**

(2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator or his/her agent must:

- (i) Sign and date each copy of the manifest;
- (ii) Note any discrepancies (as defined in 265.72(a)) on each copy of the manifest;
- (iii) Immediately give the transporter at least one copy of the manifest;
- (iv) Within thirty (30) days of delivery, send a copy (Page 2) of the manifest to the generator; and;
- (v) Paper manifest submission requirements are:

(A) Options for compliance on June 30, 2018. Beginning on June 30, 2018, send the top copy (Page 1) of any paper manifest and any paper continuation sheet to the e-Manifest system for purposes of data entry and processing, or in lieu of submitting the paper copy to EPA, the owner or operator may transmit to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or both a data file and image file corresponding to Page 1 of the manifest and any continuation sheet, within thirty (30) days of the date of delivery. Submissions of copies to the e-Manifest system shall be made at the mailing address or electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, EPA will not accept mailed paper manifests from facilities for processing in e-Manifest.

(B) Options for compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to submit the top copy (Page 1) of the paper manifest and any paper continuation sheet to the e-Manifest system for purposes of data entry and processing may be met by the owner or operator only by transmitting to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the EPA system both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within thirty (30) days of the date of delivery. Submissions of copies to the e-Manifest system shall be made to the electronic mail/submission address specified at the e-Manifest program website's directory of services; and

**Revise 61-79.265.71(j)(1) and (2) to read:**

(j) Imposition of user fee for electronic manifest use.

(1) As prescribed in section 265.1311, and determined in section 265.1312, an owner or operator who is a user of the electronic manifest system shall be assessed a user fee by EPA for the submission and processing of each electronic and paper manifest. EPA shall update the schedule of user fees and publish them to the user community, as provided in section 265.1313.

(2) An owner or operator subject to user fees under this section shall make user fee payments in accordance with the requirements of section 265.1314, subject to the informal fee dispute resolution process of section 265.1316, and subject to the sanctions for delinquent payments under section 265.1315.

**Add 61-79.265.71(l) to read:**

(l) Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) shown on the manifest.

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(1) Interested persons must make all corrections to manifest data by electronic submission, either by directly entering corrected data to the web-based service provided in e-Manifest for such corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.

(2) Each correction submission must include the following information:

(i) The Manifest Tracking Number and date of receipt by the facility of the original manifest(s) for which data are being corrected;

(ii) The Item Number(s) of the original manifest that is the subject of the submitted correction(s); and

(iii) For each Item Number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.

(3) Each correction submission shall include a statement that the person submitting the corrections certifies that to the best of his or her knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete.

(i) The certification statement must be executed with a valid electronic signature; and

(ii) A batch upload of data corrections may be submitted under one (1) certification statement.

(4) Upon receipt by the system of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.

(5) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the system, certified by the respondent as specified in paragraph (1)(3) of this section, and with notice of the corrections to other interested persons shown on the manifest.

### **Revise 61-79.265.1087(c)(4)(i) to read:**

(i) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within twenty-four (24) hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in section 261.7(b)), the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the subpart CC container standards). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest (EPA Forms 8700-22 and 8700-22A), as required under subpart E of this part, at section 265.71. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of paragraph (c)(4)(iii) of this section.

### **Revise 265.1087(d)(4)(i) to read:**

(i) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within twenty-four (24) hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in section 261.7(b)), the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or

before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the subpart CC container standards). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest (EPA Forms 8700-22 and 8700-22A), as required under subpart E of this part, at section 265.71. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of paragraph (d)(4)(iii) of this section.

**Add Subpart FF to 61-79.265. Table of Contents to read:**

**Add 265 Subpart FF to read:**

**SUBPART FF: Fees for the Electronic Hazardous Waste Manifest Program**

**265.1300. Applicability.**

(a) This subpart prescribes:

(1) The methodology by which EPA will determine the user fees which owners or operators of facilities must pay for activities and manifest related services provided by EPA through the development and operation of the electronic hazardous waste manifest system (e-Manifest system); and

(2) The process by which EPA will revise e-Manifest system fees and provide notice of the fee schedule revisions to owners or operators of facilities.

(b) The fees determined under this subpart apply to owners or operators of facilities whose activities receiving, rejecting, or managing federally- or state-regulated wastes or other materials bring them within the definition of “user of the electronic manifest system” under section 260.10.

**265.1310. Definitions applicable to this subpart.**

The following definitions apply to this subpart:

“**Consumer price index**” means the consumer price index for all U.S. cities using the “U.S. city average” area, “all items” and “not seasonally adjusted” numbers calculated by the Bureau of Labor Statistics in the Department of Labor.

“**CROMERR costs**” are the sub-category of operations and maintenance costs that are expended by EPA in implementing electronic signature, user registration, identity proofing, and copy of record solutions that meet EPA’s electronic reporting regulations as set forth in the Cross Media Electronic Reporting Rule (CROMERR) as codified at 40 CFR part 3.

“**Electronic manifest submissions**” means manifests that are initiated electronically using the electronic format supported by the e-Manifest system, and that are signed electronically and submitted electronically to the e-Manifest system by facility owners or operators to indicate the receipt or rejection of the wastes identified on the electronic manifest. Electronic manifest submissions include the hybrid or mixed paper/electronic manifests authorized under section 262.24(c)(1).

“**EPA program costs**” mean the Agency’s intramural and non-information technology extramural costs expended in the design, development and operations of the e-Manifest system, as well as in regulatory development activities supporting e-Manifest, in conducting its capital planning, project management, oversight and outreach activities related to e-Manifest, in conducting economic analyses supporting e-Manifest, and in establishing the System Advisory Board to advise EPA on the system. Depending on the date on which EPA

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program costs are incurred, these costs may be further classified as either system setup costs or operations and maintenance costs.

**“Help desk costs”** mean the costs incurred by EPA or its contractors to operate the e-Manifest Help Desk, which EPA will establish to provide e-Manifest system users with technical assistance and related support activities.

**“Indirect costs”** mean costs not captured as marginal costs, system setup costs, or operations and maintenance costs, but that are necessary to capture because of their enabling and supporting nature, and to ensure full cost recovery. Indirect costs include, but are not limited to, such cost items as physical overhead, maintenance, utilities, and rents on land, buildings, or equipment. Indirect costs also include the EPA costs incurred from the participation of EPA offices and upper management personnel outside of the lead program office responsible for implementing the e-Manifest program.

**“Manifest submission type”** means the type of manifest submitted to the e-Manifest system for processing, and includes electronic manifest submissions and paper manifest submissions.

**“Marginal labor costs”** mean the human labor costs incurred by staff operating the paper manifest processing center in conducting data key entry, quality assurance (QA), scanning, copying, and other manual or clerical functions necessary to process the data from paper manifest submissions into the e-Manifest system’s data repository.

**“Operations and maintenance costs”** mean all system related costs incurred by EPA or its contractors after the activation of the e-Manifest system. Operations and maintenance costs include the costs of operating the electronic manifest information technology system and data repository, CROMERR costs, help desk costs, EPA program costs incurred after e-Manifest system activation, and the costs of operating the paper manifest processing center, other than the paper processing center’s marginal labor costs.

**“Paper manifest submissions”** mean submissions to the paper processing center of the e-Manifest system by facility owners or operators, of the data from the designated facility copy of a paper manifest, EPA Form 8700-22, or a paper Continuation Sheet, EPA Form 8700-22A. Such submissions may be made by mailing the paper manifests or continuation sheets, by submitting image files from paper manifests or continuation sheets in accordance with section 265.1311(b), or by submitting both an image file and data file in accordance with the procedures of section 265.1311(c).

**“System setup costs”** mean all system related costs, intramural or extramural, incurred by EPA prior to the activation of the e-Manifest system. Components of system setup costs include the procurement costs from procuring the development and testing of the e-Manifest system, and the EPA program costs incurred prior to e-Manifest system activation.

### **265.1311. Manifest transactions subject to fees.**

(a) Per manifest fee. Fees shall be assessed on a per manifest basis for the following manifest submission transactions:

(1) The submission of each electronic manifest that is electronically signed and submitted to the e-Manifest system by the owners or operators of receiving facilities, with the fee assessed at the applicable rate for electronic manifest submissions;

(2) The submission of each paper manifest submission to the paper processing center signed by owners or operators of receiving facilities, with the fee assessed according to whether the manifest is submitted to the system by mail, by the upload of an image file, or by the upload of a data file representation of the paper manifest; and

(3) The submission of copies of return shipment manifests by facilities that are rejecting hazardous wastes and returning hazardous wastes under return manifests to the original generator. This fee is assessed for the processing of the return shipment manifest(s), and is assessed at the applicable rate determined by the method of submission. The submission shall also include a copy of the original signed manifest showing the rejection of the wastes.

(b) Image file uploads from paper manifests. Receiving facilities may submit image file uploads of completed, ink-signed manifests in lieu of submitting mailed paper forms to the e-Manifest system. Such image file upload submissions may be made for individual manifests received by a facility or as a batch upload of image files from multiple paper manifests received at the facility:

(1) The image file upload must be made in an image file format approved by EPA and supported by the e-Manifest system; and

(2) At the time of submission of an image file upload, a responsible representative of the receiving facility must make a CROMERR compliant certification that to the representative's knowledge or belief, the submitted image files are accurate and complete representations of the facility's received manifests, and that the facility acknowledges that it is obligated to pay the applicable per manifest fee for each manifest included in the submission.

(c) Data file uploads from paper manifests. Receiving facilities may submit data file representations of completed, ink-signed manifests in lieu of submitting mailed paper forms or image files to the e-Manifest system. Such data file submissions from paper manifests may be made for individual manifests received by a facility or as a batch upload of data files from multiple paper manifests received at the facility.

(1) The data file upload must be made in a data file format approved by EPA and supported by the e-Manifest system;

(2) The receiving facility must also submit an image file of each manifest that is included in the individual or batch data file upload; and

(3) At the time of submission of the data file upload, a responsible representative of the receiving facility must make a CROMERR compliant certification that to the representative's knowledge or belief, the data and images submitted are accurate and complete representations of the facility's received manifests, and that the facility acknowledges that it is obligated to pay the applicable per manifest fee for each manifest included in the submission.

**265.1312. User fee calculation methodology.**

(a) The fee calculation formula or methodology that EPA will use initially to determine per manifest fees is as follows:

$$Fee_i = (\text{System Setup Cost} / [\text{Years} \times N_i]) + (\text{Marginal Cost}_i + [\text{O\&M Cost} / N_i]) \times (1 + \text{Indirect Cost Factor})$$

$$\text{System Setup Cost} = \text{Procurement Cost} + \text{EPA Program Cost}$$

$$\text{O\&M Cost} = \text{Electronic System O\&M Cost} + \text{Paper Center O\&M Cost} + \text{Help Desk Cost} + \text{EPA Program Cost} + \text{CROMERR Cost} + \text{LifeCycle Cost to Modify or Upgrade eManifest System Related Services}$$

Where  $Fee_i$  represents the per manifest fee for each manifest submission type "i" and  $N_i$  refers to the total number of manifests completed in a year.

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(b)(1) If after four (4) years of system operations, electronic manifest usage does not equal or exceed seventy-five (75) percent of total manifest usage, EPA may transition to the following formula or methodology to determine per manifest fees:

$$\text{Fee}_i = (\text{System Setup Cost}/[\text{Years} \times N_i]) + (\text{Marginal Cost}_i + [\text{O\&M}_i \text{ Cost}/N_i]) \times (1 + \text{Indirect Cost Factor})$$

$$\text{System Setup Cost} = \text{Procurement Cost} + \text{EPA Program Cost}$$

$$\text{O\&M}_{\text{fully electronic}} \text{ Cost} = \text{Electronic System O\&M Cost} + \text{Help Desk Cost} + \text{EPA Program Cost} + \text{CROMERR Cost} + \text{LifeCycle Cost of Modify or Upgrade eManifest System Related Services}$$

$$\text{O\&M}_{\text{all other}} \text{ Cost} = \text{Electronic System O\&M Cost} + \text{Paper Center O\&M Cost} + \text{Help Desk Cost} + \text{EPA Program Cost} + \text{CROMERR Cost} + \text{LifeCycle Cost to Modify or Upgrade eManifest System Related Services}$$

Where  $N_i$  refers to the total number of one (1) of the four (4) manifest submission types “ $i$ ” completed in a year and  $O\&M_i \text{ Cost}$  refers to the differential O&M Cost for each manifest submission type “ $i$ .”

(2) At the completion of four (4) years of system operations, EPA shall publish a notice:

(i) Stating the date upon which the fee formula set forth in paragraph (b)(1) of this section shall become effective; or

(ii) Stating that the fee formula in paragraph (b)(1) of this section shall not go into effect under this section, and that the circumstances of electronic manifest adoption and the appropriate fee response shall be referred to the System Advisory Board for the Board’s advice.

### 265.1313. User fee revisions.

(a) Revision schedule.

(1) EPA will revise the fee schedules for e-Manifest submissions and related activities at two-year intervals, by utilizing the applicable fee calculation formula prescribed in section 265.1312 and the most recent program cost and manifest usage numbers.

(2) The fee schedules will be published to users through the e-Manifest program website by July 1 of each odd numbered calendar year, and will cover the next two (2) fiscal years beginning on October 1 of that year and ending on September 30 of the next odd numbered year.

(b) Inflation adjuster. The second year of each two-year fee schedule shall be adjusted for inflation by using the following adjustment formula:

$$\text{Fee}_{i_{\text{Year } 2}} = \text{Fee}_{i_{\text{Year } 1}} \times (\text{CPI}_{\text{Year } 2-2} / \text{CPI}_{\text{Year } 2-1})$$

Where:

$\text{Fee}_{i_{\text{Year } 2}}$  is the Fee for each type of manifest submission “ $i$ ” in Year 2 of the fee cycle;

$\text{Fee}_{i_{\text{Year } 1}}$  is the Fee for each type of manifest submission “ $i$ ” in Year 1 of the fee cycle; and

$\text{CPI}_{\text{Year } 2-2} / \text{CPI}_{\text{Year } 2-1}$  is the ratio of the CPI published for the year two (2) years prior to Year 2 to the CPI for the year one (1) year prior to Year 2 of the cycle.

(c) Revenue recovery adjusters. The fee schedules published at two-year intervals under this section shall include an adjustment to recapture revenue lost in the previous two-year fee cycle on account of imprecise estimates of manifest usage. This adjustment shall be calculated using the following adjustment formula to calculate a revenue recapture amount which will be added to O&M Costs in the fee calculation formula of section 265.1312:

$$\text{Revenue Recapture}_i = [(N_{i\text{Year}1} + N_{i\text{Year}2})_{\text{Actual}} - (N_{i\text{Year}1} + N_{i\text{Year}2})_{\text{Est}}] \times \text{Fee}_{i(\text{Ave})}$$

Where:

Revenue Recapture<sub>i</sub> is the amount of fee revenue recaptured for each type of manifest submission “i;”

$(N_{i\text{Year}1} + N_{i\text{Year}2})_{\text{Actual}} - (N_{i\text{Year}1} + N_{i\text{Year}2})_{\text{Est}}$  is the difference between actual manifest numbers submitted to the system for each manifest type during the previous two-year cycle, and the numbers estimated when we developed the previous cycle’s fee schedule; and

Fee<sub>i(Ave)</sub> is the average fee charged per manifest type over the previous two-year cycle.

**265.1314. How to make user fee payments.**

(a) All fees required by this subpart shall be paid by the owners or operators of the receiving facility in response to an electronic invoice or bill identifying manifest-related services provided to the user during the previous month and identifying the fees owed for the enumerated services.

(b) All fees required by this subpart shall be paid to EPA by the facility electronically in U.S. dollars, using one of the electronic payment methods supported by the Department of the Treasury’s pay.gov online electronic payment service, or any applicable additional online electronic payment service offered by the Department of Treasury.

(c) All fees for which payments are owed in response to an electronic invoice or bill must be paid within thirty (30) days of the date of the invoice or bill.

**265.1315. Sanctions for delinquent payments.**

(a) Interest. In accordance with 31 U.S.C. 3717(a)(1), delinquent e-Manifest user fee accounts shall be charged a minimum annual rate of interest equal to the average investment rate for Treasury tax and loan accounts (Current Value of Funds Rate or CVFR) for the twelve-month period ending September 30 of each year, rounded to the nearest whole percent.

(1) E-Manifest user fee accounts are delinquent if the accounts remain unpaid after the due date specified in the invoice or other notice of the fee amount owed.

(2) Due dates for invoiced or electronically billed fee amounts shall be thirty (30) days from the date of the electronic invoice or bill.

(b) Financial penalty. In accordance with 31 U.S.C. 3717(e), e-Manifest user fee accounts that are more than ninety (90) days past due (i.e., not paid by date one hundred twenty (120) days from date of invoice) shall be charged an additional penalty of six (6) percent per year assessed on any part of the debt that is past due for more than ninety (90) days, plus any applicable processing and handling charges.

(c) Compliance with manifest perfection requirement. A manifest is fully perfected when:



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(1) The manifest has been submitted by the owner or operator of a receiving facility to the e-Manifest system, as either an electronic submission or a paper manifest submission; and

(2) All user fees arising from the submission of the manifest have been fully paid.

### **265.1316. Informal fee dispute resolution.**

(a) Users of e-Manifest services that believe their invoice or charges to be in error must present their claims for fee dispute resolution informally using the process described in this section.

(b) Users asserting a billing dispute claim must first contact the system's billing representatives by phone or email at the phone number or email address provided for this purpose on the e-Manifest program's website or other customer services directory.

(1) The fee dispute claimant must provide the system's billing representatives with information identifying the claimant and the invoice(s) that are affected by the dispute, including:

(i) The claimant's name, and the facility at which the claimant is employed;

(ii) The EPA Identification Number of the affected facility;

(iii) The date, invoice number, or other information to identify the particular invoice(s) that is the subject of the dispute; and

(iv) A phone number or email address where the claimant can be contacted.

(2) The fee dispute claimant must provide the system's billing representatives with sufficient supporting information to identify the nature and amount of the fee dispute, including:

(i) If the alleged error results from the types of manifests submitted being inaccurately described in the invoice, the correct description of the manifest types that should have been billed;

(ii) If the alleged error results from the number of manifests submitted being inaccurately described in the invoice, the correct description of the number of manifests that should have been billed;

(iii) If the alleged error results from a mathematical error made in calculating the amount of the invoice, the correct fee calculations showing the corrected fee amounts; and

(iv) Any other information from the claimant that explains why the invoiced amount is in error and what the fee amount invoiced should be if corrected.

(3) EPA's system billing representatives must respond to billing dispute claims made under this section within ten (10) days of receipt of a claim. In response to a claim, the system's billing representative will:

(i) State whether the claim is accepted or rejected, and if accepted, the response will indicate the amount of any fee adjustment that will be refunded or credited to the facility; and

(ii) If a claim is rejected, then the response shall provide a brief statement of the reasons for the rejection of the claim and advise the claimant of their right to appeal the claim to the Office Director for the Office of Resource Conservation and Recovery.

(c) Fee dispute claimants that are not satisfied by the response to their claim from the system's billing representatives may appeal their claim and initial decision to the Office Director for the Office of Resource Conservation and Recovery.

(1) Any appeal from the initial decision of the system's billing representatives must be taken within ten (10) days of the initial decision of the system's billing representatives under paragraph (b) of this section.

(2) The claimant shall provide the Office Director with the claim materials submitted to the system's billing representatives, the response provided by the system's billing representatives to the claim, and a brief written statement by the claimant explaining the nature and amount of the billing error, explaining why the claimant believes the decision by the system's billing representatives is in error, and why the claimant is entitled to the relief requested on its appeal.

(3) The Office Director shall review the record presented to him or her on an appeal under this paragraph (c), and shall determine whether the claimant is entitled to relief from the invoice alleged to be in error, and if so, shall state the amount of the recalculated invoice and the amount of the invoice to be adjusted.

(4) The decision of the Office Director on any appeal brought under this section is final and non-reviewable.

**Statement of Need and Reasonableness:**

The following presents an analysis of the factors listed in 1976 Code Sections 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: 61-79, Hazardous Waste Management Regulations.

Purpose: The purpose of these amendments is to maintain state consistency with the following EPA regulations published in the Federal Register: "Revisions to the Definition of Solid Waste, Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule," on May 30, 2018, at 83 FR 24664-24671; "Confidentiality Determinations for Hazardous Waste Export and Import Documents," on December 26, 2017, at 82 FR 60894-60901; and "Hazardous Waste Electronic Manifest System User Fee; Final Rule," on January 3, 2018, at 83 FR 420-462.

Legal Authority: 1976 Code Section 44-56-30.

Plan for Implementation: The DHEC Regulation Development Update (accessible at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>) provides a summary of and link to these amendments. Additionally, printed copies are available for a fee from the Department's Freedom of Information Office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendments and any associated information.

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

The Department adopts three final EPA rules published in the Federal Register. The "Revisions to the Definition of Solid Waste, Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule," published on May 30, 2018, at 83 FR 24664-24671, revises several recycling-related provisions associated with the definition of solid waste under Subtitle C of RCRA and portions of the original rule that were vacated by the United States Court of Appeals for the D.C. Circuit. The "Confidentiality Determinations for Hazardous Waste Export and Import Documents," published on December 26, 2017, at 82 FR 60894-60901, amends existing export and import hazardous waste regulations from and into the United States by applying a confidentiality determination for documents related to the export, import, and transit of hazardous waste, and export of excluded cathode ray tubes. The "Hazardous Waste Electronic Manifest System User Fee; Final Rule," published on January 3, 2018, at 83 FR 420-462, establishes the methodology the EPA uses to determine and revise user fees applicable to the

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electronic and paper manifest to be submitted to the national Hazardous Waste Electronic Manifest System that became operational nationwide on June 30, 2018. Adoption of these rules is required to comply with federal law and brings R.61-79 into conformity with the federal regulations.

### DETERMINATION OF COSTS AND BENEFITS:

These amendments are exempt from the requirements of a Preliminary Fiscal Impact Statement or a Preliminary Assessment Report because the changes are necessary to maintain compliance with federal law.

The EPA estimates in the Federal Register, Volume 80, Number 8, January 13, 2015 on page 1769 that the Definition of Solid Waste Rule will result in cost savings for the regulated community due to increased recycling of hazardous wastes. Likewise, in the Federal Register, Volume 83, Number 2, dated January 3, 2018, page 446, the EPA estimates that the Hazardous Waste Electronic Manifest User Fee Rule will result in cost savings for the regulated community. Finally, in the Federal Register, Volume 82, Number 246, dated December 26, 2017, page 60898, the EPA estimates that the Confidentiality Determinations for Hazardous Waste Export and Import Documents Rule will result in greater efficiencies and cost savings for the regulated community.

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the state or its political subdivisions.

### EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

The revisions to R.61-79 provide continued protection of the environment and human health in accordance with updates to federal law.

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

If South Carolina does not adopt these amendments, the EPA's delegation of authority to the state to implement environmental protection programs would be compromised. As a delegated state program, the EPA requires South Carolina's regulations be at least as stringent as the federal regulations. Adoption of these revisions ensures equivalency with federal requirements.

Document No. 4888

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

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

61-9. Water Pollution Control Permits.

### Synopsis:

The Department of Health and Environmental Control ("Department") proposes amending R.61-9 to adopt portions of three federal Clean Water Act rules promulgated by the United States Environmental Protection Agency ("EPA") required for State program implementation. These federal regulations include National Pollutant Discharge Elimination System ("NPDES") Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting (79 FR 49001, August 19, 2014), NPDES Electronic Reporting Rule (80 FR 64063, October 22, 2015), and NPDES Applications and Program Updates (84 FR 3324, February 12, 2019). Incorporating these rules into R.61-9 modifies existing NPDES regulations, which clarifies that permit applicants must use "sufficiently sensitive" analytical test methods, requires the electronic reporting and sharing

of NPDES program information, and revises NPDES application and public notice requirements consistent with electronic reporting.

The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), exempted these amendments from General Assembly review, as the Department promulgates these amendments for compliance with federal law.

The Department had a Notice of Drafting published in the April 26, 2019, *South Carolina State Register*.

**Instructions:**

Amend R.61-9 pursuant to each individual instruction provided with the text of the amendments below.

**Text:**

61-9. Water Pollution Control Permits.

(Statutory Authority: Sections 48-1-10 et seq. and Sections 48-14-10 et seq.)

**Amend Table of Contents to read:**

**Table of Contents**

- 61-9.3. Cross-Media Electronic Reporting.
- 61-9.122. The National Pollutant Discharge Elimination System.
- 61-9.124. Procedures for Decision Making.
- 61-9.125. Criteria and Standards for the National Pollutant Discharge Elimination System.
- 61-9.127. NPDES Electronic Reporting.
- 61-9.129. Toxic Pollutant Effluent Standards and Prohibitions.
- 61-9.133. Secondary Treatment Regulation.
- 61-9.403. General Pretreatment Regulations for Existing and New Sources of Pollution.
- 61-9.503. Standards for the Use or Disposal of Sewage Sludge.
- 61-9.504. Standards for the Use or Disposal of Industrial Sludge.
- 61-9.505. Land Application Permits and State Permits.

**Add 61-9.3 to read:**

**61-9.3. CROSS-MEDIA ELECTRONIC REPORTING**

Refer to 40 CFR Part 3, which is hereby adopted by reference.

**Amend 61-9.122.2. to correct a typographical error in the definition of “Discharge of a pollutant” to read:**

“Discharge of a pollutant”

(1) means:

- (i) Any addition of any pollutant or combination of pollutants to waters of the State from any point source, or
- (ii) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

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(2) includes additions of pollutants into waters of the State from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

### **Amend 61-9.122.2. to add the following definitions in alphabetical order:**

“Pesticide discharges to waters of the State from pesticide application” means the discharges that result from the application of biological pesticides, and the application of chemical pesticides that leave a residue, from point sources to waters of the United States. In the context of this definition of pesticide discharges to waters of the United States from pesticide application, this does not include agricultural storm water discharges and return flows from irrigated agriculture, which are excluded by law (33 U.S.C. 1342(l); 33 U.S.C. 1362(14)).

“Pesticide residue” for the purpose of determining whether an NPDES permit is needed for discharges to waters of the State from pesticide application, means that portion of a pesticide application that is discharged from a point source to waters of the United States and no longer provides pesticidal benefits. It also includes any degradates of the pesticide.

### **Amend 61-9.122.21(a) to read:**

(a) Duty to apply.

(1) Any person who discharges or proposes to discharge pollutants or who owns or operates a “sludge-only facility” whose sewage sludge use or disposal practice is regulated by R.61-9.503 and who does not have an effective permit, except persons covered by general permits under section 122.28, excluded under section 122.3, or a user of a privately owned treatment works, unless the Department requires otherwise under section 122.44(m), must submit a complete application to the Department in accordance with this section and R.61-9.124. All concentrated animal feeding operations have a duty to seek coverage under an NPDES permit, as described in section 122.23(d).

(2) Application Forms:

(i) All applicants for State-issued permits must submit applications on EPA permit application forms. More than one application form may be required from a facility depending on the number and types of discharges or outfalls found there. Applications for State-issued permits must be submitted as follows:

(A) All applicants, other than POTWs, TWTDS, vessels, and pesticide applicators must submit Form 1.

(B) Applicants for new and existing POTWs must submit the information contained in paragraph (j) of this section using Form 2A or other form provided by the Department.

(C) Applicants for concentrated animal feeding operations or aquatic animal production facilities must submit Form 2B.

(D) Applicants for existing industrial facilities (including manufacturing facilities, commercial facilities, mining activities, and silvicultural activities), must submit Form 2C.

(E) Applicants for new industrial facilities that discharge process wastewater must submit Form 2D.

(F) Applicants for new and existing industrial facilities that discharge only nonprocess wastewater must submit Form 2E.

(G) Applicants for new and existing facilities whose discharge is composed entirely of storm water associated with industrial activity must submit Form 2F, unless exempted by Section 122.26(c)(1)(ii). If the discharge is composed of storm water and non-storm water, the applicant must also submit Forms 2C, 2D, and/or 2E, as appropriate (in addition to Form 2F).

(H) Applicants for new and existing TWTDS, subject to paragraph (c)(2)(i) of this section must submit the application information required by paragraph (q) of this section, using Form 2S or other form provided by the Department.

(ii) The application information required by paragraph (a)(2)(i) of this section may be electronically submitted if such method of submittal is approved by the Department.

(iii) Applicants can obtain copies of these forms by contacting the Department.

(3) Applicants for State-issued permits must use State forms which must require at a minimum the information listed in the appropriate paragraphs of this section.

(4) A person discharging or proposing to discharge wastes into the waters of the State shall promptly make application for and obtain a valid NPDES Permit and, if required, a valid State Construction Permit.

**Amend 61-9.122.21(e) to read:**

(e) Completeness.

(1) The Department shall not issue a permit before receiving a complete application for a permit except for NPDES general permits. An application for a permit is complete when the Department receives an application form and any supplemental information which are completed to its satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity.

(2) A permit application shall not be considered complete if a permitting authority has waived application requirements under paragraphs (j) or (q) of this section and EPA has disapproved the waiver application. If a waiver request has been submitted to EPA more than two hundred ten (210) days prior to permit expiration and EPA has not disapproved the waiver application one hundred eighty-one (181) days prior to permit expiration, the permit application lacking the information subject to the waiver application shall be considered complete.

(3) Except as specified in 122.21(e)(3)(ii), a permit application shall not be considered complete unless all required quantitative data are collected in accordance with sufficiently sensitive analytical methods approved under 40 CFR Part 136 or required under 40 CFR chapter I, subchapter N or O.

(i) For the purposes of this requirement, a method approved under 40 CFR Part 136 or required under 40 CFR chapter I, subchapter N or O is “sufficiently sensitive” when:

(A) The method minimum level (ML) is at or below the level of the applicable water quality criterion for the measured pollutant or pollutant parameter; or

(B) The method ML is above the applicable water quality criterion, but the amount of the pollutant or pollutant parameter in a facility’s discharge is high enough that the method detects and quantifies the level of the pollutant or pollutant parameter in the discharge; or

(C) The method has the lowest ML of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR chapter I, subchapter N or O for the measured pollutant or pollutant parameter.

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Note to paragraph (e)(3)(i):

Consistent with 40 CFR Part 136, applicants have the option of providing matrix or sample specific minimum levels rather than the published levels. Further, where an applicant can demonstrate that, despite a good faith effort to use a method that would otherwise meet the definition of “sufficiently sensitive,” the analytical results are not consistent with the QA/QC specifications for that method, then the Department may determine that the method is not performing adequately and the applicant should select a different method from the remaining EPA-approved methods that is sufficiently sensitive consistent with 40 CFR 122.21(e)(3)(i). Where no other EPA-approved methods exist, the applicant should select a method consistent with 40 CFR 122.21(e)(3)(ii).

(ii) When there is no analytical method that has been approved under 40 CFR Part 136, required under 40 CFR chapter I, subchapter N or O, and is not otherwise required by the Department, the applicant may use any suitable method but shall provide a description of the method. When selecting a suitable method, other factors such as a method’s precision, accuracy, or resolution may be considered when assessing the performance of the method.

(4) The Department, at its discretion, or upon request of the Regional Administrator, may request of an applicant any additional information deemed necessary to complete or correct deficiencies in a Refuse Act permit application, before processing the application or issuing or denying the issuance of a permit.

(5) The Department may take enforcement action as prescribed by the State law or this regulation against any person who fails to file a complete application, if deficiencies are not corrected or complete information is not supplied within sixty (60) days to the Department following its request.

### **Amend 61-9.122.21(f) to read:**

(f) Information requirements. All applicants for NPDES permits, other than POTW and other TWTDS, vessels, and pesticide applicators, must provide the following information to the Department, using the application form provided by the Department. Additional information required of applicants is set forth in paragraphs (g) through (k) of this section.

(1) The activities conducted by the applicant which require it to obtain an NPDES permit.

(2) Name, mailing address, and location of the facility for which the application is submitted.

(3) Up to four SIC codes and up to four NAICS codes which best reflect the principal products or services provided by the facility.

(4) The operator’s name, address, telephone number, electronic mail address, ownership status, and status as Federal, State, private, public, or other entity.

(5) Whether the facility is located on Indian lands.

(6) A listing of all permits or construction approvals received or applied for under any of the following programs:

(i) Hazardous Waste Management program under RCRA.

(ii) UIC program under SDWA.

(iii) NPDES program under CWA.

(iv) Prevention of Significant Deterioration (PSD) program under the Clean Air Act.

(v) Nonattainment program under the Clean Air Act.

(vi) National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act.

(vii) Ocean dumping permits under the Marine Protection Research and Sanctuaries Act.

(viii) Dredge or fill permits under section 404 of CWA.

(ix) Other relevant environmental permits, including State permits.

(7) A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area.

(8) A brief description of the nature of the business, activity, or type project.

(9) An indication of whether the facility uses cooling water and the source of the cooling water.

(10) An indication of whether the facility is requesting any of the variances at Section 122.21(m) if known at the time of application.

**Add 61-9.122.21(g)(7)(ix) to read:**

(ix) Where quantitative data are required in paragraphs (g)(7)(i) through (viii) of this section, existing data may be used, if available, in lieu of sampling done solely for the purpose of the application, provided that: All data requirements are met; sampling was performed, collected, and analyzed no more than four and one-half (4.5) years prior to submission; all data are representative of the discharge; and all available representative data are considered in the values reported.

**Amend 61-9.122.21(j)(1)(ii) to read:**

(ii) Applicant information. Name, mailing address, telephone number, and electronic mail address of the applicant, and indication as to whether the applicant is the facility's owner, operator, or both;

**Amend 61-9.122.21(j)(1)(viii)(D)(2) to read:**

(2) The name, mailing address, contact person, phone number, and electronic mail address of the organization transporting the discharge, if the transport is provided by a party other than the applicant;

**Amend 61-9.122.21(j)(1)(viii)(D)(3) to read:**

(3) The name, mailing address, contact person, phone number, electronic mail address, and NPDES permit number (if any) of the receiving facility; and

**Add 61-9.122.21(j)(1)(ix) to read:**

(ix) An indication of whether the applicant is operating under or requesting to operate under a variance as specified at Section 122.21(n), if known at the time of application.



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### **Amend 61-9.122.21(j)(4)(i) to read:**

(i) As provided in paragraphs (j)(4)(ii) through (x) of this section, all applicants must submit to the Department effluent monitoring information for samples taken from each outfall through which effluent is discharged to waters of the State, except for CSOs. The Department may allow applicants to submit sampling data for only one outfall on a case-by-case basis, where the applicant has two or more outfalls with substantially identical effluent. The Department may also allow applicants to composite samples from one or more outfalls that discharge into the same mixing zone. For POTWs applying prior to commencement of discharge, data shall be submitted no later than twenty-four (24) months after the commencement of discharge;

### **Amend 61-9.122.21(j)(5)(i) to read:**

(i) All applicants must provide an identification of any whole effluent toxicity tests conducted during the four and one-half years prior to the date of the application on any of the applicant's discharges or on any receiving water near the discharge. For POTWs applying prior to commencement of discharge, data shall be submitted no later than twenty-four (24) months after the commencement of discharge.

### **Amend 61-9.122.21(j)(6)(i) to read:**

(i) Number of significant industrial users (SIU) and non-significant categorical industrial users (NSCIUs), as defined at 40 CFR 403.3(v), including SIUs and NSCIUs that truck or haul waste, discharging to the POTW; and

### **Amend 61-9.122.21(j)(9) to read:**

(9) Contractors. All applicants must provide the name, mailing address, telephone number, electronic mail address, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility; and

### **Amend 61-9.122.21(k)(5)(vi) to read:**

(vi) No later than twenty-four (24) months after the commencement of discharge from the proposed facility, the applicant is required to complete and submit Items V and VI of NPDES application Form 2C (see section 122.21(g)). However, the applicant need not complete those portions of Item V requiring tests which have already been performed and reported under the discharge monitoring requirements of the NPDES permit.

### **Amend 61-9.122.21(q)(2)(i) to read:**

(i) The name, mailing address, telephone number, and electronic mail address of the applicant; and

### **Amend 61-9.122.21(q)(8)(vi)(A) to read:**

(A) The name, mailing address, and electronic mail address of the receiving facility;

### **Amend 61-9.122.21(q)(9)(iii)(D) to read:**

(D) The name, mailing address, telephone number, and electronic mail address of the site owner, if different from the applicant;

### **Amend 61-9.122.21(q)(9)(iii)(E) to read:**

(E) The name, mailing address, telephone number, and electronic mail address of the person who applies sewage sludge to the site, if different from the applicant;

**Amend 61-9.122.21(q)(9)(iv)(A) to read:**

(A) Whether the applicant has contacted the permitting authority in the State where the bulk sewage sludge subject to section 503.13(b)(2) will be applied, to ascertain whether bulk sewage sludge subject to section 503.13(b)(2) has been applied to the site on or since July 20, 1993, and if so, the name of the permitting authority and the name, phone number, and electronic mail address if available, of a contact person at the permitting authority;

**Amend 61-9.122.21(q)(10)(ii)(A) to read:**

(A) The site name or number, contact person, mailing address, telephone number, and electronic mail address for the surface disposal site and

**Amend 61-9.122.21(q)(10)(iii)(K)(I) to read:**

(I) The name, contact person, mailing address, and electronic mail address of the facility and

**Amend 61-9.122.21(q)(11)(ii)(A) to read:**

(A) The name and/or number, contact person, mailing address, telephone number, and electronic mail address of the sewage sludge incinerator and

**Amend 61-9.122.21(q)(12)(i) to read:**

(i) The name, contact person, mailing address, electronic mail address, location, and all applicable permit numbers of the MSWLF;

**Amend 61-9.122.21(q)(13) to read:**

(13) Contractors. All applicants must provide the name, mailing address, telephone number, electronic mail address, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility related to sewage sludge generation, treatment, use, or disposal.

**Add 61-9.122.22(e) to read:**

(e) Electronic Reporting. If documents described in paragraph (a) or (b) of this section are submitted electronically by or on behalf of the NPDES-regulated facility, any person providing the electronic signature for such documents shall meet all relevant requirements of this section, and shall ensure that all of the relevant requirements of 40 CFR Part 3 (including, in all cases, subpart D to Part 3) (Cross-Media Electronic Reporting) and 40 CFR Part 127 (NPDES Electronic Reporting Requirements) are met for that submission.

**Add 61-9.122.26(b)(15)(i)(C) to read:**

(C) As of December 21, 2020, all certifications submitted in compliance with paragraphs (b)(15)(i)(A) and (B) of this section must be submitted electronically by the owner or operator to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, owners or operators may be required to report electronically if specified by a particular permit or if required to do so by State law.

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### **Amend 61-9.122.26(g)(1)(iii) to read:**

(iii) Submit the signed certification to the NPDES permitting authority once every five (5) years. As of December 21, 2020, all certifications submitted in compliance with this section must be submitted electronically by the owner or operator to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, owners or operators may be required to report electronically if specified by a particular permit or if required to do so by State law.

### **Amend 61-9.122.28(b)(2)(i) and (ii) to read:**

(i) Except as provided in paragraphs (b)(2)(v) and (b)(2)(vi) of this section, dischargers (or treatment works treating domestic sewage) seeking coverage under a general permit shall submit to the Department a written notice of intent to be covered by the general permit. A discharger (or treatment works treating domestic sewage) who fails to submit a notice of intent in accordance with the terms of the permit is not authorized to discharge (or in the case of sludge disposal permit, to engage in a sludge use or disposal practice), under the terms of the general permit unless the general permit, in accordance with paragraph (b)(2)(v) of this section, contains a provision that a notice of intent is not required or the Department notifies a discharger (or treatment works treating domestic sewage) that it is covered by a general permit in accordance with paragraph (b)(2)(vi) of this section. A complete and timely notice of intent (NOI) to be covered in accordance with general permit requirements, fulfills the requirements for permit applications for purposes of sections 122.6, 122.21 and 122.26. As of December 21, 2020, all notices of intent submitted in compliance with this section must be submitted electronically by the discharger (or treatment works treating domestic sewage) to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, discharger (or treatment works treating domestic sewage) may be required to report electronically if specified by a particular permit or if required to do so by State law.

(ii) The contents of the notice of intent shall be specified in the general permit and shall require the submission of information necessary for adequate program implementation, including at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, and the receiving stream(s), and other required data elements as identified in appendix A to 40 CFR Part 127. General permits for storm water discharges associated with industrial activity from inactive mining, inactive oil and gas operations, or inactive landfills occurring on Federal lands where an operator cannot be identified may contain alternative notice of intent requirements. All notices of intent shall be signed in accordance with section 122.22. Notices of intent for coverage under a general permit for concentrated animal feeding operations (CAFO) must include the information specified in section 122.21(i)(1), including a topographic map.

### **Amend 61-9.122.34(g)(3) to read:**

(3) Reporting. Unless you are relying on another entity to satisfy your NPDES permit obligations under section 122.35(a), you must submit annual reports to the Department for your first permit term. For subsequent permit terms, you must submit reports in year two and four unless the Department requires more frequent reports. As of December 21, 2020, all reports submitted in compliance with this section must be submitted electronically by the owner, operator, or the duly authorized representative of the small MS4 to the Department as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, the owner, operator, or the duly authorized representative of the small MS4 may be required to report electronically if specified by a particular permit or if required to do so by State law. Your report must include:

**Amend 61-9.122.41(l) to read:**

(l) Reporting requirements.

**Amend 61-9.122.41(l)(4)(i) to read:**

(i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices. As of December 21, 2016, all reports and forms submitted in compliance with this section must be submitted electronically by the permittee to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, permittees may be required to report electronically if specified by a particular permit or if required to do so by State law.

**Amend 61-9.122.41(l)(6)(i) to read:**

(i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within twenty-four (24) hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports must include the data described above (with the exception of time of discovery), as well as the type of event (combined sewer overflows, sanitary sewer overflows, or bypass events), type of sewer overflow structure (e.g., manhole, combine sewer overflow outfall), discharge volumes untreated by the treatment works treating domestic sewage, types of human health and environmental impacts of the sewer overflow event, and whether the noncompliance was related to wet weather. As of December 21, 2020, all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit or if required to do so by State law. The Department may also require permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section.

**Amend 61-9.122.41(l)(7) to read:**

(7) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (l)(4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (l)(6) of this section. For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports shall contain the information described in paragraph (l)(6) and the applicable required data in appendix A to 40 CFR Part 127. As of December 21, 2020, all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit or if required to do so by State law. The Department may also require permittees to

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electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section.

### **Add 61-9.122.41(l)(9) to read:**

(9) Identification of the initial recipient for NPDES electronic reporting data. The owner, operator, or the duly authorized representative of an NPDES-regulated entity is required to electronically submit the required NPDES information (as specified in appendix A to 40 CFR Part 127) to the appropriate initial recipient, as determined by EPA, and as defined in Section 127.2(b) of this chapter. EPA will identify and publish the list of initial recipients on its website and in the Federal Register, by State and by NPDES data group [see Section 127.2(c) of this chapter]. EPA will update and maintain this listing.

### **Amend 61-9.122.41(m)(3)(i) and (ii) to read:**

(i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least ten (10) days before the date of the bypass. As of December 21, 2020, all notices submitted in compliance with this section must be submitted electronically by the permittee to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, permittees may be required to report electronically if specified by a particular permit or if required to do so by State law.

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (l)(6) of this section (24-hour notice). As of December 21, 2020, all notices submitted in compliance with this section must be submitted electronically by the permittee to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, permittees may be required to report electronically if specified by a particular permit or if required to do so by State law.

### **Amend 61-9.122.42(c) to read:**

(c) Municipal separate storm sewer systems. The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Department under section 122.26(a)(1)(v) of this regulation must submit an annual report by the anniversary of the date of the issuance of the permit for such system. As of December 21, 2020, all reports submitted in compliance with this section must be submitted electronically by the owner, operator, or the duly authorized representative of the MS4 to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, the owner, operator, or the duly authorized representative of the MS4 may be required to report electronically if specified by a particular permit or if required to do so by State law. The report shall include:

### **Amend 61-9.122.42(e)(4) to read:**

(4) Annual reporting requirements for CAFO. The permittee must submit an annual report to the Department. As of December 21, 2020, all annual reports submitted in compliance with this section must be submitted electronically by the permittee to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, the permittee may be required to report electronically if specified by a particular permit or if required to do so by State law. The annual report must include:

**Amend 61-9.122.42(e)(4)(vi) to read:**

(vi) Summary of all manure, litter, and process wastewater discharges from the production area that have occurred in the previous twelve (12) months, including for each discharge, the date of discovery, duration of discharge, and approximate volume; and

**Amend 61-9.122.43(a) to read:**

(a) In addition to conditions required in all permits (sections 122.41 and 122.42), the Department shall establish conditions, as required on a case-by-case basis, to provide for and ensure compliance with all applicable requirements of CWA and PCA and regulations. These shall include conditions under section 122.46 (duration of permits), section 122.47(a) (schedules of compliance), and section 122.48 (monitoring), and electronic reporting requirements of 40 CFR Part 3 (Cross-Media Electronic Reporting Regulation) and 40 CFR Part 127 (NPDES Electronic Reporting).

**Amend 61-9.122.44(i)(1) to read:**

(1) To ensure compliance with the permit and protection of the environment, requirements to monitor:

**Amend 61-9.122.44(i)(1)(iv) to read:**

(iv) According to sufficiently sensitive test procedures (i.e., methods) approved under 40 CFR Part 136 for the analyses of pollutants or pollutant parameters or required under 40 CFR chapter I, subchapter N or O.

(A) For the purposes of this paragraph, a method is “sufficiently sensitive” when:

(1) The method minimum level (ML) is at or below the level of the effluent limit established in the permit for the measured pollutant or pollutant parameter; or

(2) The method has the lowest ML of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR chapter I, subchapter N or O for the measured pollutant or pollutant parameter.

Note to paragraph (i)(1)(iv)(A):

Consistent with 40 CFR Part 136, applicants or permittees have the option of providing matrix or sample specific minimum levels rather than the published levels. Further, where an applicant or permittee can demonstrate that, despite a good faith effort to use a method that would otherwise meet the definition of “sufficiently sensitive,” the analytical results are not consistent with the QA/QC specifications for that method, then the Department may determine that the method is not performing adequately and the Department should select a different method from the remaining EPA-approved methods that is sufficiently sensitive consistent with 40 CFR 122.44(i)(1)(iv)(A). Where no other EPA-approved methods exist, the Department should select a method consistent with Section 122.44(i)(1)(iv)(B).

(B) In the case of pollutants or pollutant parameters for which there are no approved methods under 40 CFR Part 136 or methods are not otherwise required under 40 CFR chapter I, subchapter N or O, monitoring shall be conducted according to a test procedure specified in the permit for such pollutants or pollutant parameters.

**Amend 61-9.122.44(i)(2) to read:**

(2) Except as provided in paragraphs (i)(4) and (i)(5) of this section, requirements to report monitoring results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge but in no case less than once a year. For sewage sludge use or disposal practices, requirements to

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monitor and report results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the sewage sludge use or disposal practice; minimally this shall be as specified in R.61-9.503 (where applicable) but in no case less than once a year. All results must be electronically reported in compliance with 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127.

### **Amend 61-9.122.44(k)(4) to read:**

(4) The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA.

Note to paragraph (k)(4):

Additional technical information on BMPs, and the elements of BMPs, is contained in the following documents: Guidance Manual for Developing Best Management Practices (BMPs), October 1993, EPA No. 833/B-93-004, NTIS No. PB 94-178324, ERIC No. W498); Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices, September 1992, EPA No. 832/R-92-005, NTIS No. PB 92-235951, ERIC No. N482); Storm Water Management for Construction Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA No. 833/R-92-001, NTIS No. PB 93-223550; ERIC No. W139; Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices, September 1992; EPA 832/R-92-006, NTIS No. PB 92-235969, ERIC No. N477; Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA 833/R-92-002, NTIS No. PB 94-133782; ERIC No. W492. These and other EPA guidance documents can be obtained through the National Service Center for Environmental Publications (NSCEP) at <http://www.epa.gov/nscep>. In addition, States may have BMP guidance documents. These EPA guidance documents are listed here only for informational purposes; they are not binding and EPA does not intend that these guidance documents have any mandatory, regulatory effect by virtue of their listing in this note.

### **Add 61-9.122.48(c) to read:**

(c) Applicable reporting requirements based upon the impact of the regulated activity and as specified in 40 CFR Part 3 (Cross-Media Electronic Reporting Regulation), Section 122.44, and 40 CFR Part 127 (NPDES Electronic Reporting). Reporting shall be no less frequent than specified in Section 122.44. EPA will maintain the start dates for the electronic reporting of monitoring results for each State on its website.

### **Add 61-9.122.63(i) to read:**

(i) Require electronic reporting requirements (to replace paper reporting requirements) including those specified in 40 CFR Part 3 (Cross-Media Electronic Reporting Regulation) and 40 CFR Part 127 (NPDES Electronic Reporting).

### **Add 61-9.122.64 (c) to read:**

(c) Permittees that wish to terminate their permit must submit a Notice of Termination (NOT) to their permitting authority. If requesting expedited permit termination procedures, a permittee must certify in the NOT that it is not subject to any pending State or Federal enforcement actions including citizen suits brought under State or Federal law. As of December 21, 2020, all NOTs submitted in compliance with this section must be submitted electronically by the permittee to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), Section 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, the permittee may be required to report electronically if specified by a particular permit or if required to do so by State law.

**Add and reserve 61-9.124.10(c)(2)(iii) to read:**

(iii) [Reserved]

**Add 61-9.124.10(c)(2)(iv) to read:**

(iv) For NPDES major permits and NPDES general permits, in lieu of the requirement for publication of a notice in a daily or weekly newspaper, as described in paragraph (c)(2)(i) of this section, the Department may publish all notices of activities described in paragraph (a)(1) of this section to the Department's public website. If the Department selects this option for a draft permit, as defined in Section 122.2, in addition to meeting the requirements in paragraph (d) of this section, the Department must post the draft permit and fact sheet on the website for the duration of the public comment period.

Note to paragraph (c)(2)(iv):

The Department is encouraged to ensure that the method(s) of public notice effectively informs all interested communities and allows access to the permitting process for those seeking to participate.

**Amend 61-9.125.3(a)(1)(ii) to read:**

(ii) [Reserved]

**Add 61-9.127 to read:****61-9.127. NPDES ELECTRONIC REPORTING**

Refer to 40 CFR Part 127, which is hereby adopted by reference.

**Amend 61-9.403.12(e)(1) to read:**

(1) Any Industrial User subject to a categorical Pretreatment Standard (except a Non-Significant Categorical User as defined in section 403.3(o)(2)), after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the POTW, shall submit to the Control Authority during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Control Authority or the Department, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical Pretreatment Standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the Discharge reported in paragraph (b)(4) of this section, except that the Control Authority may require more detailed reporting of flows. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the User shall submit documentation required by the Control Authority or the Pretreatment Standard necessary to determine the compliance status of the User. At the discretion of the Control Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may modify the months during which the above reports are to be submitted. For Industrial Users for which EPA or the authorized State, tribe, or territory is the Control Authority, as of December 21, 2020, all reports submitted in compliance with this section must be submitted electronically by the industrial user to the Control Authority or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), 40 CFR 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, the Industrial Users for which EPA or the authorized State, tribe, or territory is the Control Authority may be required to report electronically if specified by a particular control mechanism or if required to do so by State law.



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### **Amend 61-9.403.12(h) and (i) to read:**

(h) Reporting requirements for Industrial Users not subject to categorical Pretreatment Standards. The Control Authority must require appropriate reporting from those Industrial Users with Discharges that are not subject to categorical Pretreatment Standards. Significant Non-categorical Industrial Users must submit to the Control Authority at least once every six (6) months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. In cases where a local limit requires compliance with a Best Management Practice or pollution prevention alternative, the User must submit documentation required by the Control Authority to determine the compliance status of the User. These reports must be based on sampling and analysis performed in the period covered by the report, and in accordance with the techniques described in Part 136 and amendments thereto. This sampling and analysis may be performed by the Control Authority in lieu of the significant non-categorical Industrial User. For Industrial Users for which EPA or the authorized State, tribe, or territory is the Control Authority, as of December 21, 2020, all reports submitted in compliance with this section must be submitted electronically by the industrial user to the Control Authority or the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), 40 CFR 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, the Industrial Users for which EPA or the authorized State, tribe, or territory is the Control Authority may be required to report electronically if specified by a particular control mechanism or if required to do so by State law.

(i) Annual POTW reports. POTWs with approved Pretreatment Programs shall provide the Department with a report that briefly describes the POTW's program activities, including activities of all participating agencies, if more than one jurisdiction is involved in the local program. The report required by this section shall be submitted no later than one (1) year after approval of the POTW's Pretreatment Program, and at least annually thereafter, and shall include, at a minimum, the applicable required data in appendix A to 40 CFR Part 127. The report required by this section must also include a summary of changes to the POTW's pretreatment program that have not been previously reported to the Department and any other relevant information requested by the Department. As of December 21, 2020, all annual reports submitted in compliance with this section must be submitted electronically by the POTW Pretreatment Program to the Department, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), 40 CFR 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, the Department may also require POTW Pretreatment Programs to electronically submit annual reports under this section if specified by a particular permit or if required to do so by State law.

### **Amend 61-9.503.18(a) to read:**

(a) Any generator of sewage sludge that is applied to the land, any person who prepares sewage sludge that is applied to the land, or any person who applies sewage sludge to the land, including Class I sludge management facilities, POTWs (as defined in 40 CFR 501.2) with a design flow rate equal to or greater than one million gallons per day, and POTWs that serve 10,000 people or more shall submit a report on February 19 of each year. As of December 21, 2020, all reports submitted in compliance with this section must be submitted electronically in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), 40 CFR 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to the start dates for electronic reporting (see Table 1 in 40 CFR 127.16), the Department may also require operators to electronically submit annual reports under this section if required to do so by State law.

(1) The information in section 503.17(a), except the information in section 503.17(a)(3)(ii), section 503.17(a)(4)(ii) and in section 503.17(a)(5)(ii), for the appropriate requirements on or before February 19 of each year, for the period of January 1 through December 31 of the previous calendar year.

(2) The information in section 503.17(a)(5)(ii)(A) through (a)(5)(ii)(G) on or before February 19~~th~~ of each year, for the period of January 1 through December 31 of the previous calendar year when 90 percent or more of any of the cumulative pollutant loading rates in Table 2 of section 503.13 is reached at a land application site.

**Amend 61-9.503.28(a) to read:**

(a) Any generator of sewage sludge disposed of at a surface disposal site, any person who prepares sewage sludge that is disposed of at a surface disposal site, or any person who disposes of sewage sludge at a surface disposal site, including Class I sludge management facilities, POTWs (as defined in 40 CFR 501.2) with a design flow rate equal to or greater than one million gallons per day, and POTWs that serve 10,000 people or more shall submit a report with the information in section 503.27(a) to the Department on or before February 19 of each year, for the period of January 1 through December 31 of the previous calendar year. As of December 21, 2020, all reports submitted in compliance with this section must be submitted electronically in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), 40 CFR 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to the start dates for electronic reporting (see Table 1 in 40 CFR 127.16), the Department may also require operators to electronically submit annual reports under this section if required to do so by State law.

**Amend 61-9.503.48(a) to read:**

(a) Any generator of sewage sludge when sewage sludge is incinerated, any person who prepares sewage sludge that is incinerated, or any person who incinerates sewage sludge, including Class I sludge management facilities, POTWs (as defined in 40 CFR 501.2) with a design flow rate equal to or greater than one million gallons per day, and POTWs that serve a population of 10,000 people or greater shall submit the information in section 503.47(b) through section 503.47(h) to the Department on or before February 19 of each year, for the period of January 1 through December 31 of the previous calendar year. Reports required by this regulation do not exclude any person from submitting reports required by other Department regulations or by other applicable EPA regulations. As of December 21, 2020, all reports submitted in compliance with this section must be submitted electronically in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), 40 CFR 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to the start dates for electronic reporting (see Table 1 in 40 CFR 127.16), the Department may also require operators to electronically submit annual reports under this section if required to do so by State law.

**Statement of Need and Reasonableness:**

The following presents an analysis of the factors listed in 1976 Code Sections 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: 61-9, Water Pollution Control Permits.

Purpose: Proposed amendments of R.61-9 to adopt portions of three federal Clean Water Act rules issued by the United States Environmental Protection Agency (“EPA”) required for State program implementation.

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

Plan for Implementation: The DHEC Regulation Development Update (accessible at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>) provides a summary of and link to these proposed amendments. Additionally, printed copies are available for a fee from the Department’s Freedom of Information Office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendments and any associated information.

## **132 FINAL REGULATIONS**

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

The Department proposes amending R.61-9 to adopt portions of three federal Clean Water Act rules issued by the EPA. Adoption of these federal regulations is necessary for State program implementation. The regulations include NPDES Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting (79 FR 49001, August 19, 2014), NPDES Electronic Reporting Rule (80 FR 64063, October 22, 2015), and NPDES Applications and Program Updates (84 FR 3324, February 12, 2019). Incorporating these rules into R.61-9 modifies existing NPDES regulations, which clarifies that permit applicants must use “sufficiently sensitive” analytical test methods, requires the electronic reporting and sharing of NPDES program information, and revises NPDES application and public notice requirements consistent with electronic reporting.

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

The proposed amendments will save time and resources for the State and regulated permittees by transitioning from paper to electronic reporting. The amendments will also increase data accuracy, which will result in improved compliance to provide better protection of the waters of the State.

### **UNCERTAINTIES OF ESTIMATES:**

The uncertainties associated with the estimation of benefits and burdens are minimal.

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

Implementation of these amendments will not compromise the protection of the environment or the health and safety of the citizens of the State. The proposed amendments to R.61-9 seek to maintain compliance with federal law, which promotes the protection of water quality and public health.

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

Failure by the Department to incorporate the required revisions in R.61-9 would result in the established NPDES Program to maintain inaccurate representations of the water quality of the State’s waters.