

SOUTH CAROLINA STATE REGISTER DISCLAIMER

While every attempt has been made to ensure the accuracy of this State Register, the Legislative Council makes no warranties or representations regarding its accuracy or completeness, and each user of this product understands that the Legislative Council disclaims any liability for any damages in connection with its use. This information is not intended for commercial use and its dissemination by sale or other commercial transfer is not authorized, absent a written licensing agreement with the Legislative Council. For further information contact the Legislative Council at 803-212-4500.

SOUTH CAROLINA STATE REGISTER

PUBLISHED BY
THE LEGISLATIVE COUNCIL
of the
GENERAL ASSEMBLY

STEPHEN T. DRAFFIN, DIRECTOR
ANNE F. CUSHMAN, EDITOR
DEIRDRE BREVARD-SMITH, ASSOCIATE EDITOR

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

Published June 25, 2010

Volume 34 Issue No. 6

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.

2010 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	1/8	2/12	3/12	4/9	5/14	6/11	7/9	8/13	9/10	10/8	11/12	12/10
Publishing Date	1/22	2/26	3/26	4/23	5/28	6/25	7/23	8/27	9/24	10/22	11/26	12/24

REPRODUCING OFFICIAL DOCUMENTS

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

PUBLIC INSPECTION OF DOCUMENTS

Documents filed with the Office of the State Register are available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 212-4500.

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

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

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

EMERGENCY REGULATIONS

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

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

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

EFFECTIVE DATE OF REGULATIONS

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

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

SUBSCRIPTIONS

Subscriptions to the *South Carolina State Register* are available electronically through the South Carolina Legislature Online website at www.scstatehouse.gov via an access code, or in a printed format. Subscriptions run concurrent with the State of South Carolina's fiscal year (July through June). The annual subscription fee for **either** format is \$100.00. Payment must be made by check payable to the Legislative Council. To subscribe complete the form below and mail with payment. Access codes for electronic subscriptions will be e-mailed to the address submitted on this form.

X-----X-----X

South Carolina State Register **Subscription Order Form**

Name	Title
Firm	
Mailing Address	
Billing Address (if different from mailing address)	
Contact Person(s)	E-mail Address
Phone Number	Fax Number
Number of subscriptions: (Cost is \$100.00 per subscription. Checks payable to: Legislative Council)	
	Electronic
	Printed

Mail this form to:
South Carolina State Register
Deirdre Brevard-Smith, Associate Editor
P.O. Box 11489
Columbia, SC 29211
Telephone: (803) 212-4500

TABLE OF CONTENTS

REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

Status and Legislative Review Expiration Dates.....	1
Committee List of Regulations Submitted to General Assembly.....	2

EXECUTIVE ORDERS

Executive Order No. 2010-10	Declaring New Election for Marion School Board Seat	3
Executive Order No. 2010-11	Suspending Anderson County Clerk of Court.....	3
Executive Order No. 2010-12	Appointing Kershaw County Councilman	4

NOTICES

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF

Certification of Need	5
Exempt Sources List.....	6
General Conditional Major Operating Permit - Hot Mix Asphalt Plants	8
Office of Ocean and Coastal Resource Management (OCRM) Beachfront Baseline and 40-Year Setback Lines for Huntington Beach State Park, Litchfield Beach, Pawleys Island and Debidue Beach.....	9
Permit Extension Joint Resolution of 2010 (H. 4445 of 2010)	9
Underground Storage Tanks.....	11

Errata

Standards for Licensing Habilitation Centers for the Mentally Retarded or Persons with Related Conditions; Standards for Licensing Hospitals and Institutional General Infirmaries; Health Care Cooperative Agreements; Standards for Licensing Adult Day Care Facilities; Standards for Licensing Hospice Facilities; Standards for Licensing Residential Care Facilities; Minimum Standards for Licensing Chiropractic Facilities; Standards for Ambulatory Surgical Facilities; Standards for Licensing Facilities that Treat Individuals for Psychoactive Substance Abuse or Dependence; Standards for Licensing Renal Dialysis Facilities; Standards for Licensing Birthing Centers for Deliveries by Midwives; and Standards for Permitting Body Piercing Facilities	12
---	----

LABOR, LICENSING AND REGULATION, DEPARTMENT OF

Fire Marshal, Office of State

National Fire Protection Association 10, Standard for Portable Fire Extinguishers, 2010 Edition	17
National Fire Protection Association 11, Standard for Low-, Medium-, and High-Expansion Systems, 2010 Edition	17
National Fire Protection Association 12A, Standard on Halon 1301 Extinguishing Systems, 2009 Edition	18
National Fire Protection Association 22, Standard for Water Tanks for Private Fire Protection, 2008 Edition	18
National Fire Protection Association 52, Utility LP-Gas Plant Code, 2010 Edition.....	19
National Fire Protection Association 495, Explosive Materials Code, 2010 Edition	19
National Fire Protection Association 750, Standard on Water Mist Fire Protection Systems, 2010 Edition	20
National Fire Protection Association 2010, Standard for Fixed Aerosol Fire-Extinguishing Systems, 2010 Edition	20

TABLE OF CONTENTS

DRAFTING NOTICES

AGRICULTURE, DEPARTMENT OF	
Federal Food, Drug and Cosmetic Act Regulations.....	21
CLEMSON UNIVERSITY	
State Crop Pest Commission	
Phytophthora ramorum Quarantine.....	21
HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF	
Hazardous Waste Management Planning	22
Retail Food Establishments.....	22
Retail Food Establishment Plan Review	23

PROPOSED REGULATIONS

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF	
Document No. 4131	Air Pollution Control Regulations and Standards..... 24
Document No. 4130	Air Pollution Control Regulations and Standards; and Standards of Performance for Asbestos Projects..... 27
Document No. 4132	Environmental Protection Fees..... 35
Document No. 4133	Radioactive Materials (Title A)..... 39
Document No. 4129	Water Pollution Control Permits..... 44

FINAL REGULATIONS

ACCOUNTANCY, BOARD OF	
Document No. 4100	Firm Registration, Continuing Professional Education and Professional Standards..... 47
ARCHITECTURAL EXAMINERS, BOARD OF	
Document No. 4101	Practice of Architecture; Increased Use of Electronic Documents..... 50
BUILDING CODES COUNCIL	
Document No. 4114	Inspectors - Registration, Fees and Disciplinary Procedure..... 56
COSMETOLOGY, BOARD OF	
Document No. 4075	Cosmetology Schools and Continuing Education for Licensees..... 61
EDUCATION, STATE BOARD OF	
Document No. 4117	Requirements for Additional Areas of Certification..... 78
Document No. 4116	South Carolina Virtual School Program..... 97
HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF	
Document No. 4107	Infectious Waste Management..... 104
Document No. 4108	Standards for Licensing Community Residential Care Facilities..... 129

TABLE OF CONTENTS

INSURANCE, DEPARTMENT OF

Document No. 4121	Agents and Agency Licenses	161
-------------------	----------------------------------	-----

LABOR, LICENSING AND REGULATION, DEPARTMENT OF

Fire Marshal, Office of State

Document No. 4102	Portable Fire Extinguishers and Fixed Fire Extinguishing Systems	164
-------------------	--	-----

MANUFACTURED HOUSING BOARD

Document No. 4103	Apprentice Salespersons	168
-------------------	-------------------------------	-----

NATURAL RESOURCES, DEPARTMENT OF

Document No. 4110	Special Use Restrictions Applicable to Real Property Owned and Leased by the Department.....	170
-------------------	---	-----

REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

In order by General Assembly review expiration date
The history, status, and full text of these regulations are available on the
South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.htm>

DOC. NO.	RAT. NO.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY
4043		SR34-2	Amend and Add Regulations to Chapter 67 to Reflect Changes in Title 42 Necessitated by the Approval of Act 111 on June 25, 2007	1/13/10	Workers' Compensation Commission
4054		SR34-3	Registration of Immigration Assistance Services	2/22/10	LLR
4055		SR34-3	Illegal Aliens and Private Employment	2/22/10	LLR
4058		SR34-3	Insurance Holding Company Systems	3/08/10	Department of Insurance
4059		SR34-3	South Carolina Reinsurance Facility Recoupment	3/08/10	Department of Insurance
4060		SR34-3	Life Insurance Disclosure	3/08/10	Department of Insurance
4061		SR34-3	Valuation of Investments	3/08/10	Department of Insurance
4068		SR34-4	Funeral Service Practice Act	4/08/10	Board of Funeral Service
4066		SR34-5	Long Term Care Insurance	4/21/10	Department of Insurance
4063		SR34-5	Workers' Compensation Insurance and Use of Leased Vehicles	5/12/10	Public Service Commission
4070	R175	SR34-5	Air Pollution Control Regulations and Standards	5/12/10	Department of Health and Envir Control
4083		SR34-5	Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities	5/12/10	Department of Insurance
4088		SR34-5	Annuity and Deposit Fund Disclosure	5/12/10	Department of Insurance
4080	R177	SR34-5	Hazardous Waste Management	5/12/10	Department of Health and Envir Control
4069	R165	SR34-4	Species or Subspecies of Non-game Wildlife	5/12/10	Department of Natural Resources
4085	R176	SR34-5	Air Pollution Control Regulations and Standards	5/12/10	Department of Health and Envir Control
4090	R155	SR34-4	Seasons, Limits, Methods of Take and Special Use Restrictions on WMA's; Turkey Hunting Rules and Seasons	5/12/10	Department of Natural Resources
4091		SR34-5	Seeds	5/12/10	Department of Agriculture
4073		SR34-5	Definitions for Charter Bus, Equipped to Carry and Passenger	5/12/10	Public Service Commission
4078	R153	SR34-4	Uniform Real Property Recording Act	5/12/10	Secretary of State
4105	R150	SR34-4	Citrus Greening Quarantine	5/12/10	Clemson University-State Crop Pest Comm.
4106	R151	SR34-4	Phytophthora ramorum Quarantine	5/12/10	Clemson University-State Crop Pest Comm.
4097		SR34-5	Continuing Insurance Education	5/12/10	Department of Insurance
4098		SR34-5	Annual Audited Financial Reporting Regulation	5/12/10	Department of Insurance
4099		SR34-5	Dates for Payment of Annual License Fees/Appointment Fee for Insurance Agents Brokers, Adjusters, Agencies, and Motor Vehicle Damage Appraisers	5/12/10	Department of Insurance
4081		SR34-5	Athletic Trainers	5/14/10	Department of Health and Envir Control
4101		SR34-6	Practice of Architecture; Increased Use of Electronic Documents	5/21/10	Board of Architectural Examiners
4103		SR34-6	Apprentice Salespersons	5/21/10	Manufactured Housing Board
4100		SR34-6	Firm Registration, Continuing Professional Education and Professional Standards	5/21/10	Board of Accountancy
4102		SR34-6	Portable Fire Extinguishers and Fixed Fire Extinguishing Systems	5/26/10	LLR - Office of State Fire Marshal
4114		SR34-6	Inspectors - Registration, Fees and Disciplinary Procedure	5/26/10	Building Codes Council
4110	R217	SR34-6	Regulation of Real Property Owned and Leased by the Dept.	5/27/10	Department of Natural Resources
4116		SR34-6	South Carolina Virtual School Program	5/28/10	State Board of Education
4117	R216	SR34-6	Requirements for Additional Areas of Certification	5/28/10	State Board of Education
4108		SR34-6	Standards for Licensing Community Residential Care Facilities	5/30/10	Department of Health and Envir Control
4121		SR34-6	Agents and Agency Licenses	6/01/10	Department of Insurance
4075		SR34-6	Requirements of Licensure in the Field of Cosmetology	6/01/10	Board of Cosmetology
4107		SR34-6	Infectious Waste Management Regulations	6/02/10	Department of Health and Envir Control
4077			Premises	6/20/10	Alcoholic Beverages, Beer and Wine
Committee Requested Withdrawal					
4022			Riverbanks Parks Commission	Tolled	Riverbanks Parks Commission
Resolution Introduced to Disapprove					
4014			Environmental Protection Fees	Tolled	Department of Health and Envir Control
4015			Environmental Protection Fees	Tolled	Department of Health and Envir Control
4067			Law Enforcement Officer and E-911 Officer Training & Certification	Tolled	S.C. Criminal Justice Academy
4109			Child Support Guidelines	Tolled	Department of Social Services
Permanently Withdrawn					
4072			Central Fill Pharmacies		Board of Pharmacy

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.sstatehouse.gov/regnsrch.htm>

DOC. No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
4043	Amend and Add Regulations to Chapter 67 to Reflect Changes in Title 42 Necessitated by the Approval of Act 111 on June 25, 2007	Labor, Commerce and Industry	Judiciary
4054	Registration of Immigration Assistance Services	Labor, Commerce and Industry	Labor, Commerce and Industry
4055	Illegal Aliens and Private Employment	Judiciary	Labor, Commerce and Industry
4058	Insurance Holding Company Systems	Labor, Commerce and Industry	Banking and Insurance
4059	South Carolina Reinsurance Facility Recoupment	Labor, Commerce and Industry	Banking and Insurance
4060	Life Insurance Disclosure	Labor, Commerce and Industry	Banking and Insurance
4061	Valuation of Investments	Labor, Commerce and Industry	Banking and Insurance
4068	Funeral Service Practice Act	Labor, Commerce and Industry	Judiciary
4066	Long Term Care Insurance	Labor, Commerce and Industry	Banking and Insurance
4063	Workers' Compensation Insurance and Use of Leased Vehicles	Labor, Commerce and Industry	Judiciary
4070	Air Pollution Control Regulations and Standards	Agriculture and Natural Resources	Medical Affairs
4083	Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities	Labor, Commerce and Industry	Banking and Insurance
4088	Annuity and Deposit Fund Disclosure	Labor, Commerce and Industry	Banking and Insurance
4080	Hazardous Waste Management	Agriculture and Natural Resources	Medical Affairs
4069	Species or Subspecies of Non-game Wildlife	Agriculture and Natural Resources	Fish, Game and Forestry
4085	Air Pollution Control Regulations and Standards	Agriculture and Natural Resources	Medical Affairs
4090	Seasons, Limits, Methods of Take and Special Use Restrictions on WMA's; Turkey Hunting Rules and Seasons	Agriculture and Natural Resources	Fish, Game and Forestry
4091	Seeds	Agriculture and Natural Resources	Agriculture and Natural Resources
4073	Definitions for Charter Bus, Equipped to Carry and Passenger	Labor, Commerce and Industry	Judiciary
4078	Uniform Real Property Recording Act	Judiciary	Judiciary
4105	Citrus Greening Quarantine	Agriculture and Natural Resources	Agriculture and Natural Resources
4106	Phytophthora ramorum Quarantine	Agriculture and Natural Resources	Agriculture and Natural Resources
4097	Continuing Insurance Education	Labor, Commerce and Industry	Banking and Insurance
4098	Annual Audited Financial Reporting Regulation	Labor, Commerce and Industry	Banking and Insurance
4099	Dates for Payment of Annual License Fees/Appointment Fees for Insurance Agents, Brokers, Adjusters, Agencies, and Motor Vehicle Damage Appraisers	Labor, Commerce and Industry	Banking and Insurance
4081	Athletic Trainers	Medical, Military, Pub & Mun Affairs	Medical Affairs
4101	Practice of Architecture; Increased Use of Electronic Documents	Labor, Commerce and Industry	Labor, Commerce and Industry
4103	Apprentice Salespersons	Labor, Commerce and Industry	Labor, Commerce and Industry
4100	Firm Registration, Continuing Professional Education and Professional Standards	Labor, Commerce and Industry	Labor, Commerce and Industry
4102	Portable Fire Extinguishers and Fixed Fire Extinguishing Systems	Labor, Commerce and Industry	Labor, Commerce and Industry
4114	Inspectors - Registration, Fees and Disciplinary Procedure	Labor, Commerce and Industry	Labor, Commerce and Industry
4110	Regulation of Real Property Owned and Leased by the Dept.	Agriculture and Natural Resources	Fish, Game and Forestry
4116	South Carolina Virtual School Program	Education	Education
4117	Requirements for Additional Areas of Certification	Education	Education
4108	Standards for Licensing Community Residential Care Facilities	Medical, Military, Pub & Mun Affairs	Medical Affairs
4121	Agents and Agency Licenses	Labor, Commerce and Industry	Banking and Insurance
4075	Requirements of Licensure in the Field of Cosmetology	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4107	Infectious Waste Management Regulations	Agriculture and Natural Resources	Medical Affairs
4077	Premises	Judiciary	Judiciary
Committee Requested Withdrawal			
4022	Riverbanks Parks Commission	Agriculture and Natural Resources	Fish, Game and Forestry
Resolution Introduced to Disapprove			
4014	Environmental Protection Fees	Agriculture and Natural Resources	Medical Affairs
4015	Environmental Protection Fees	Agriculture and Natural Resources	Medical Affairs
4067	Law Enforcement Officer and E-911 Officer Training & Certification	Judiciary	Judiciary
4109	Child Support Guidelines	Judiciary	Judiciary
Permanently Withdrawn			
4072	Central Fill Pharmacies	Medical, Military, Pub & Mun Affairs	Medical Affairs

Executive Order No. 2010-10

WHEREAS, on April 29, 2010, the Marion County Election Commission ("Commission") issued an order overturning the April 13, 2010 election results for the District 4 seat of the Marion County School Board due to irregularities and discrepancies in the election rendering doubtful the result of the election;

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

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

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby (a) order that a new election be held for the District 4 seat of the Marion County School Board on August 10, 2010, or at the earliest possible date and time after August 10, 2010, as is permitted by the United States Department of Justice; and (b) designate the Marion County Election Commission to perform the necessary official duties pertaining to the election to declare the result.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 2ND DAY OF JUNE 2010.**

MARK SANFORD
Governor

Executive Order No. 2010-11

WHEREAS, on May 25, 2010, the Grand Jurors of Anderson County, South Carolina, issued indictments for six charges of failure to collect or pay taxes withheld from employees in violation of S.C. Code Ann. § 12-54-44(B)(2) against Cathy M. Phillips, the Clerk of Court of Anderson County;

WHEREAS, South Carolina law recognizes that employee withholding taxes do not belong to the employer and that "failure to remit such taxes is akin to larceny which has been declared to involve moral turpitude," *Lyons v. Butler*, 288 S.C. 498, 502 (Ct.App. 1986);

WHEREAS, Cathy M. Phillips is an officer of a political subdivision of the State and Article VI, Section 8, of the South Carolina Constitution provides that "[a]ny officer of the State or its political subdivisions...who has been indicted by a grand jury for a crime involving moral turpitude...may be suspended by the Governor until he shall have been acquitted;" and

WHEREAS, certified true copies of the indictments against Cathy M. Phillips have been provided to me.

4 EXECUTIVE ORDERS

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby suspend Cathy M. Phillips from the office of Clerk of Court of Anderson County until such time as she shall be formally acquitted or convicted.

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

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 2nd DAY OF JUNE 2010.**

**MARK SANFORD
Governor**

Executive Order No. 2010-12

WHEREAS, Stephen S. Kelly, Jr. resigned as a member of the Kershaw County Council, At-Large District, effective May 26, 2010;

WHEREAS, the undersigned is authorized to appoint county officers in the event of a vacancy pursuant to Sections 1-3-220(2) and 4-11-20 of the South Carolina Code of Laws, as amended; and

WHEREAS, Robert Maxwell Ford, residing at 2161 Methodist Camp Road, Camden, South Carolina 29010, is a fit and proper person to serve as a member of the Kershaw County Council.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint Robert Maxwell Ford as a member of the Kershaw County Council, At-Large District, effective immediately, and shall remain effective until Stephen S. Kelly, Jr.'s successor qualifies and takes office.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 9TH DAY OF JUNE, 2010.**

**MARK SANFORD
Governor**

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication June 25, 2010, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mrs. Sarah "Sallie" C. Harrell, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Richland County

Addition of a da Vinci Si Surgical System to be located within the perioperative department at Palmetto Health Baptist
 Palmetto Health Baptist
 Columbia, South Carolina
 Project Cost: \$2,611,285

Addition of eighteen (18) nursing home beds for a total of one hundred eighty-nine (189) nursing home beds, which will not change the allocation of Medicaid patient days at the facility
 UniHealth Post-Acute Care Columbia
 Columbia, South Carolina
 Project Cost: \$0

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning June 25, 2010. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Les W. Shelton, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 545-4200.

Affecting Aiken County

Construction for the addition of twelve (12) psychiatric beds for a total of forty-one (41) licensed psychiatric beds
 Aiken Regional Medical Centers
 Aiken, South Carolina
 Project Cost: \$2,670,236

Affecting Beaufort County

Construction of a psychiatric hospital to include twenty-two (22) psychiatric beds
 Beacon Harbor Geriatric Psychiatric Hospital
 Bluffton, South Carolina
 Project Cost: \$9,079,397

Affecting York County

Construction of a new wing to the existing facility for the relocation of twenty one (21) nursing home beds; elimination of eleven 4-bed wards by converting them to twenty-two (22) semi-private patient rooms and the renovation of one (1) private patient room; the addition of a rehabilitation department, chapel, laundry room and employee offices with the total licensed bed capacity remaining at one hundred forty-one (141) nursing home beds

6 NOTICES

White Oak Manor of Rock Hill, Inc.
Rock Hill, South Carolina
Project Cost: \$5,960,862

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

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

Exempt Sources List

The South Carolina Department of Health and Environmental Control (Department) has developed a list of exempt sources in accordance with South Carolina Regulation 61-62.1, Section II(B)(3). The Exempt Sources List includes exempt sources listed in Section II(B)(2)(a) through (g) and sources that are listed as Insignificant Activities for South Carolina Regulation 61-62.70. "Insignificant Activity" generally means any air emissions or air emissions unit at a plant that has the potential to emit less than 5 tons per year of any criteria pollutant or less than 1000 pounds per year of any compound listed in Regulation 61-62.5, Standard No. 8 – Toxic Air Pollutants. The list of sources that are exempt without further review from the requirement to obtain a construction permit will be maintained by the Department and periodically published in the *South Carolina State Register* for use by the public and regulated community. A source's exemption status may change upon the promulgation of new regulatory requirements applicable to any of the sources periodically published in the *South Carolina State Register* by the Department.

South Carolina Regulation 61-62.1, Section II(B)(2)(a) through (g)

- a. Boilers and space heaters of less than 1.5×10^6 BTU/HR rated input capacity which burn only virgin liquid fuels or virgin solid fuels.
- b. Boilers and space heaters of less than 10×10^6 BTU/HR rated input capacity which burn only virgin gas fuels.
- c. Comfort air-conditioning or ventilation systems.
- d. Motor vehicles.
- e. Laboratory hoods.
- f. Emergency power generators as described below:
 - Generators of less than or equal to 150 KW rated capacity;
 - Generators of greater than 150 KW rated capacity designated for emergency use only and are operated a total of 500 hours per year or less for testing and maintenance and have a method to record the actual hours of use such as an hour meter.
- g. Sources emitting only steam, air, nitrogen, oxygen, carbon dioxide, or any physical combination of these.

Insignificant Activities List for South Carolina Regulation 61-62.70 "Title V Operating Permit Program"

Section A.

The following activities/emissions units are considered insignificant and are not required to be included in a Title V permit application:

- 1. Flares used solely to indicate danger to the public.
- 2. Comfort air conditioning or ventilation systems not used to remove air contaminants generated by or released from specified units of equipment.
- 3. Indoor or outdoor kerosene space heaters.

4. Routine housekeeping or plant upkeep activities such as painting, roofing, paving, including all associated preparation.
5. Devices used solely for safety such as pressure relief valves, rupture discs, et., if associated with a permitted emission unit.
6. Brazing, soldering or welding equipment used for regular maintenance at the facility.
7. Reproduction activities, such as blueprint copiers, xerographic copies, and photographic processes, except operation of such units on a commercial basis.
8. Equipment on the premises of industrial and manufacturing operations used solely for the purpose of preparing food for immediate human consumption.
9. Any consumer product used for the same purposes, and in similar quantities, as would be used in normal consumer use such as janitorial cleaning supplies, office supplies, personal items, maintenance supplies, etc.
10. Firefighting equipment, "prop fires", and any other activities or equipment associated with firefighter training. "Prop fires" must be fired on natural gas or propane.
11. Domestic sewage treatment facilities (excluding combustion or incineration equipment, land farms, storage silos for dry material, or grease trap waste handling or treatment facilities).
12. Laboratory equipment and compounds used for chemical, biological or physical analyses such as quality control, environmental monitoring, bench-scale research or studies, training in chemical analysis techniques, and minor research and development (this does not apply to facilities where R&D is the primary objective). This exemption extends to the venting of in-line and in-situ process analysis equipment and other monitoring and sampling equipment.
13. Non-production laboratory equipment used at no-profit health or non-profit educational institutions for chemical for physical analyses, bench scale experimentation or training, or instruction.
14. Vacuum production devices used in laboratory operations.
15. Farm equipment used for soil preparation, livestock handling, crop tending and harvesting and/or other farm related activities.
16. Equipment used for hydraulic or hydrostatic testing.
17. Blast cleaning equipment using a suspension of abrasive in water.
18. All petroleum storage tanks less than 3.8 cubic meters (1000 gallons).
19. Pressurized storage tanks containing fluids such as liquid petroleum gas (LPG), liquid natural gas (LNG), natural gas, or inert gases.
20. Non-contact cooling towers, water treating systems for non-contact process cooling water or boiler feedwater, and water tanks, reservoirs, or other containers designed to cool, store, or otherwise handle water (including rainwater).
21. Recreational or residential type wood stoves, heaters, or fireplaces.
22. Water heaters which are used solely for domestic purposes.
23. Fugitive particulate emissions from passenger vehicle traffic and routine lawn and grounds keeping operations.
24. Motor vehicles, aircraft, marine vessels, locomotives, tractors or other self-propelled vehicles with internal combustion engines. This exemption only applies to the emissions from the internal combustion engines used to propel such vehicles.
25. Sources emitting only steam, air, nitrogen, oxygen, carbon dioxide, or any physical combination of these.
26. Batch cold cleaning machines, small maintenance cleaning machines, and parts washers using only nonhalogenated solvents or CFC-113 and not subject to 40 C.F.R. 60, Subpart JJJ – Standards of Performance for Petroleum Dry Cleaners.
27. Electric motors emitting only ozone.

Section B.

The following insignificant activities/emission units must be listed in the Title V application but emissions from these activities do not have to be quantified:

1. Boilers and space heaters:
-less than 1.5×10^6 BTU/hr rated input capacity which burn only virgin liquid fuels or virgin solid fuels;

8 NOTICES

-less than 10×10^6 BTU/hr rated input capacity which burn only virgin gas fuels.

2. Emergency or portable generators:

-less than or equal to 150 KW rated capacity;

-greater than 150 KW rated capacity designated for emergency use only and are operated a total of 500 hours per year or less for testing and maintenance and have a method to record the actual hours of such as an hour meter.

3. All storage tanks, excluding those listed in Section A. above, with a capacity less than 38.7 cubic meters (10,000 gallons) that store organic liquids, excluding those that store a hazardous air pollutant except as an impurity.

4. Internal Combustion engines used to drive compressors or pumps with a mechanical power output of less than 200 horsepower.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

Public Notice #10-537-GP-N

The SCDHEC, Bureau of Air Quality (BAQ), does hereby give notice of authorization being granted to the following sources who have requested coverage under General Conditional Major Operating Permit (GCMP-03) "Hot Mix Asphalt Plants." This general permit was previously opened for a 30 day public comment period on September 1, 2006, with issuance on February 01, 2007. Pursuant to South Carolina Regulation 61-62.1, Section II G(7)(a)&(b), the Department may now grant coverage to those qualified sources seeking to operate under the terms and conditions of this general permit. The authorization of each facility's coverage shall be a permit action for purposes of administrative review.

In accordance with the provisions of the Pollution Control Act, Sections 48-1-50(5) and 48-1-110(a), the 1976 Code of Laws of South Carolina, as amended, and Regulation 61-62 "Air Pollution Control Regulations and Standards," these sources are hereby granted permission to discharge air contaminants into the ambient air. The BAQ authorizes the operation of these sources in accordance with the plans, specifications and other information submitted by each facility in the General Conditional Major Permit application. Facilities operating under this permit seek to limit their potential to emit to below the thresholds which define a major source by complying with the federally enforceable conditions contained in this permit. Permit coverage is subject to and conditioned upon the terms, limitations, standards, and schedules contained in or specified on said permit.

Interested persons may review the general permit, materials submitted by the applicant, and any written comments received, during normal business hours, at the following location: SCDHEC, BAQ, 2600 Bull Street, Columbia, South Carolina, 29201.

This notice is given pursuant to the requirements of South Carolina Regulation 61-62.1, Section II G(7)(c). Comments and questions concerning any of the following individual facility's coverage under this permit should be directed to: Elizabeth Basil, Director, Engineering Services Division, BAQ, SC DHEC, 2600 Bull Street, Columbia, South Carolina, 29201 at (803) 898-4123.

LAURENS COUNTY

Panagakos Asphalt Paving Gray Court
6977 Hwy 14
Gray Court, SC

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE

The DHEC Office of Ocean and Coastal Resource Management (DHEC OCRM) is mandated by the Coastal Tidelands and Wetlands Act (S.C. Code Ann, Section 48-39-10 et seq.) to review the position of the beachfront baseline and 40-year setback line, the state's beachfront jurisdictional lines, and erosion rates every 8 to 10 years. DHEC OCRM has reviewed the position of the baseline and the 40-year setback line for the areas listed below, made notice of proposed revisions and held public hearings to acquire public comment. The beachfront baseline and 40-year setback lines for the following areas have been finalized:

Huntington Beach State Park
Litchfield Beach
Pawleys Island
Debidue Beach

Maps showing the new lines are available as PDF files that can be downloaded from the DHEC website at <http://www.dhec.sc.gov/environment/ocrm/permit/beachfront.htm>. For further information please contact DHEC OCRM project manager Bill Eiser at (843) 953-0237 or eiserwe@dhec.sc.gov.

SC. Code Section 48-39-280(E) of the Coastal Tidelands and Wetlands Act and Section F of SCDHEC Regulation 30-14 identify procedures for appealing baselines and erosion rates. Any landowner claiming ownership of affected property who feels that the final or revised setback line, baseline, or erosion rate as adopted is in error, upon submittal of substantiating evidence, within one year of the revision date, must be granted a review of the setback line, baseline, or erosion rate, or a review of all three. This notice, published in the State Register on June 25, 2010, establishes the final revision date for the above listed areas and the date for the commencement of public review of this information. The Department shall hear all requests for review. The process for this review can be found in Section F of Regulation 30-14 http://www.dhec.sc.gov/environment/ocrm/regs/docs/CAR_0408.pdf [48-39-280(E)].

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

Notice:

Section 5 of the "Permit Extension Joint Resolution of 2010" requires that the Department of Health and Environmental Control list the types of development approvals that are provided for in that joint resolution.

Synopsis:

The Permit Extension Joint Resolution of 2010 (also named H4445), ratified by the South Carolina General Assembly on May 13, 2010, and approved by the governor on May 19, 2010, postpones expirations to development approvals issued by the Department of Health and Environmental Control. The joint resolution applies retroactively. Permit expirations which would occur during the period of January 1, 2008, through December 31, 2012, are suspended until December 31, 2012. If there are any questions concerning this notice, please contact Ms. Elizabeth Basil, Director, Engineering Services Division, Bureau of Air Quality via electronic mail at basilej@dhec.sc.gov or by phone at 803.898.4126. A copy of this legislation (also named H4445) can be found electronically at http://www.scstatehouse.gov/cgi-bin/query.exe?first=DOC&querytext=h4445&category=Legislation&session=118&conid=5587055&result_pos=0&keyval=1184445.

10 NOTICES

Permit Regulation	Permit Type/Description
Solid Waste Management	
R. 61-107.19	Class 1 Landfill, land clearing debris
R. 61-107.19	Class 2 Landfill, construction and demolition debris
R. 61-107.19	Class 3 Landfill, municipal solid waste
R. 61-107.3	Waste Tire Facility (collection, processing, disposal)
R. 61-107.279	Used Oil Facility (collection, processing, marketing, burning)
R. 61-107.15	Land Application
R. 61-107.6	Solid Waste Transfer Station
R. 61-107.10	Research, Development, & Demonstration
R. 61-107.6	Solid Waste Processing Facility
R. 61-107.18	Off-Site Treatment of Contaminated Soils
R. 61-107.19	Structural Fill
R. 61-107.11	Composting/Woodgrinding Facility
R. 61-107.12	Incinerator/Pyrolysis Facility
R. 61-79	Hazardous Waste Permits
R. 61-63	Radioactive Waste Licenses
Mining	
R. 89-10 through 89-350	Individual Mine Permit (>5 acres)
R. 89-10 through 89-350	General Mine Permit (<5 acres)
Air Quality	
R. 61-62.1.II.A	Construction Permits Exceptions: 1-Construction permits issued under R. 61-62.5 Standard No. 7 Prevention of Significant Deterioration do not apply to this extension 2- Construction permits issued under R. 61-62.43 Maximum Achievable Control Technology (MACT) Determinations for Constructed and Reconstructed Major Sources do not apply to this extension
R. 61-62.1.II. D	General Construction Permits
R. 61-62.1.II. E.	Synthetic Minor Construction Permits
R. 61-62.1.II. I.	Registration Permits
Water	
R.61-58	Drinking Water Construction Permits
R.61-67	Wastewater Construction Permits
R.61-51	Recreational Waters Construction Permits
R.61-9	NPDES General Permit For Stormwater Discharges From Large and Small Construction Activities (General permit coverage: SCR100000) Note: New standards imposed by federal regulations and the federal NPDES construction general permit for stormwater discharges must still be met by project operators as they become effective.
R.61-43	Construction of Agricultural Animal Facilities
R.61-101	401 Water Quality Certifications
R.19-450	Permits for Construction in Navigable Waters
R.61-87	Underground Injection Control Permit to Construct

Permit Regulation	Permit Type/Description
R.61-113	Groundwater Withdrawal Permit to Construct
R.72-300	State Stormwater Construction Permits
Ocean & Coastal Resource Management (OCRM)	
R.30	Direct Critical Area Permits, including individual and general permits. Exception: The legislation excluded permits issued under R.30-12.N Access to Coastal Islands

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Health and Environmental Control evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act.

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

Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and/or individuals listed below, please submit your comments in writing, no later than July 26, 2010 to:

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

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

Class I

Mid-Carolina Probe, LLC
Attn: Mike Woodward
1949 Lake Cunningham Rd
Greer, SC 29651

HydroGeologic, Inc.
Attn: Janardan Patel
11107 Sunset Hills Rd, Ste 400
Reston, VA 20190

12 NOTICES

M D Shaw & Associates, PC
Attn: Michael D. Shaw
8501 Fox Tail Lane
Huntersville, NC 28078

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

ERRATA

The Department of Health and Environmental Control has conducted an audit of its regulations and is publishing this errata to correct errors in applicable regulations. These corrections do not create new regulatory requirements; the corrections are nonsubstantive and are made to improve the overall quality of the Department's regulations.

R.61-13. Standards for Licensing Habilitation Centers for the Mentally Retarded or Persons with Related Conditions

State Register Doc. 1359, March 27, 1992

At R.61-13.S(5)(a) and W(3)(b), the misspelling of the word "labelled" is corrected to "labeled" to read:

(a) All ceilings, floor assemblies, and walls enclosing storage areas of one-hundred (100) square feet or greater shall be of not less than one (1) hour fire resistive construction with 'C' labeled 3/4 hour fire-rated doors and frames.

(b) The directory shall be labeled to conform to the actual room designations.

R.61-16. Standards for Licensing Hospitals and Institutional General Infirmaries

State Register Doc. 1375, April 24, 1992

At 61-16.2604.3.A, correct formula caused by software conversion problem when electronic code was developed and different word-processing software was used; certain symbols in regulations did not convert correctly. The correct formula is 75(° F. (23.9 degrees C.)), not 75 {F. (23.9 degrees C.), or 75(F. (23.9 degrees C.)) as has been published in the State Register and Code text. The Department is correcting the formula, but is writing out the word degrees in place of the degrees symbol in order to prevent any future conversion problems if current software used by the S.C. Legislative Council changes. The formula at this section is corrected to read: 2604.3.A. Temperatures and Humidities: Minimum design temperature of 75 degrees F. (23.9 degrees C.).

R.61-31. Health Care Cooperative Agreements

State Register Doc. 1806, June 23, 1995

At 61-31.202.D.2, correct typographical error by changing the word "approval" to "approved" to read:

2. that the parties will carry out the agreement in accordance with the approved application;

R.61-75, Standards for Licensing Adult Day Care Facilities

State Register Doc. 1337, June 28, 1991

At section I, Fire Protection and Prevention, subsection item I(4) is missing an introductory title that is inconsistent with subsection items (1)-(3) and (5)-(6). This notice corrects this subsection item to include a title that reflects the content of this subsection item that would be consistent with other subsection items, to read:

(4) Storage of Flammable Liquids. Quantities of flammable liquids shall be stored in accordance with applicable NFPA codes; cleaning supplies, detergents, matches, lighters and any other potential poisons or harmful items shall be stored inaccessible to participants.

R.61-78. Standards for Licensing Hospice Facilities

State Register Doc. 2660, May 24, 2002, (and prior SR June 22, 1984)

At 61-78.2603.C. In first sentence add “F.” after 120 degrees for consistency with use of F. abbreviation with like material in this subitem to read:

C. Hot water supplied to the kitchen equipment/utensil washing sink shall be supplied at 120 degrees F provided all kitchen equipment/utensils are chemically sanitized. For those hospice facilities sanitizing with hot water, the sanitizing compartment of the kitchen equipment/utensil washing sink shall be capable of maintaining the water at a temperature of at least 180 degrees F.

R.61-90. Minimum Standards for Licensing Chiropractic Facilities

State Register Doc. 211, April 27, 1984

At 61-90.201.C.6.a., add the word “dollars” after the words “five hundred” in the fourth sentence for consistency with like language in this same section to read:

a. Class I violations are those which the Department determines present an imminent danger to the patients or residents of the facility or a substantial probability that death or serious physical harm could result there from. A physical condition, one of more practices, means, methods or operations in use in a facility may constitute such a violation. The condition or practice constituting a Class I violation shall be abated or eliminated immediately unless a fixed period of time, as stipulated by the Department, is required for correction. A Class I violation is subject to a civil penalty in an amount not less than one hundred dollars (\$100.00) and not exceeding five hundred (\$500.00) dollars for each violation. Each day such violation shall exist after expiration of said time shall be considered a subsequent violation.

At 61-90.801.5, add the word “the” before the word “attending” for grammatical correction to read:

5. All adjustment records shall contain the orders for services and adjustments performed by the licensed chiropractor written in ink and signed by the attending chiropractor or if given verbally, undersigned by him upon his next visit to the facility.

At 61-90.1303.A.2. Correct misspelled words “over-all” and “verticle” to “overall” and “vertical” to read:

2. Floor plan showing overall dimensions of buildings; locations, size and purpose of all rooms; location and size of all doors, windows and other openings with swing of doors properly indicated; location(s) of smoke partitions and firewalls; location of stairs, elevators, dumbwaiters, vertical shafts and chimneys.

At 61-90, Appendix A.3(7), correct reference from (5) to (6) to read:

(7) Certification by the contractor that only the carpeting described in (6) above was installed in the facility.

R.61-91. Standards for Ambulatory Surgical Facilities

State Register Doc. 2784, June 27, 2003

Title of Regulation: This is a regulation that sets standards for licensing and the word “Licensing” was inadvertently omitted in the title when the regulation was promulgated. The title was stated correctly in the notice sections of State Register Doc. 2784 when this regulation was amended, but the title was incorrect in the

14 NOTICES

Text section. This notice corrects the title from R.61-91, Standards for Ambulatory Surgical Centers, to 61-91, Standards for Licensing Ambulatory Surgical Facilities, to read:

61-91. Standards for Licensing Ambulatory Surgical Facilities

At 61-91.101.E.1, correct the reference at this section from 101.CC to 101.BB to read:

1. The owner or operator shall make the facility available to other providers who comprise an organized professional staff, i.e., an open medical staff (see Section 101.BB).

At 61-91.101.E.2, correct the reference at this section from 101.KK to 101.JJ, to read:

2. This definition does not apply to any facility used as an office or clinic for the private practice of licensed healthcare professionals (Section 101.JJ).

At 61-91.103.M.3, correct reference from Section 101.KK to Section 101.JJ, to read:

3. Private practices (see Section 101.JJ).

At 61-91.507.B.5, correct the reference of “Section 303” to “Section 1303” to read:

5. Fire response training within 24 hours of their first day on the job in the facility (see Section 1303);

At 61-91.508.A, correct the reference from “101.S” to “101.R” to read:

A. All staff members who have contact with patients shall have, within 12 months prior to initial patient contact, a health assessment as defined in Section 101.R.

At 61-91.1007.A.2, correct incomplete reference of “R.61-“ to “R.61-4” to read:

2. The destruction of controlled substances shall be accomplished pursuant to the requirements of R.61-4.

At 61-91.2502.C.8, correct the misspelled word “aeseptic” to “aseptic” to read:

8. An area for cleaning, testing, and storing anesthesia equipment in accordance with accepted principles of aseptic technique.

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

State Register Doc. 2531, May 25, 2001

At 61-93.302.E, correct grammatical typo by adding an apostrophe changing the word “Licensees” to “licensee’s” to read:

E. In arriving at a decision to take enforcement actions, the Department will consider the following factors: specific conditions and their impact or potential impact on health, safety or well-being; efforts by the facility to correct cited violations; behavior of the licensee that would reflect negatively on the licensee’s character such as illegal/illicit activities; overall conditions; history of compliance; and any other pertinent conditions that may be applicable to current statutes and regulations.

At R.61-93.502.B.8, correct the spelling of “blood-borne” to “bloodborne” to read:

8. For those whose care for clients may involve contact with blood and may be at risk, those OSHA standards regarding bloodborne pathogens.

At 61-93.1105.D. The same sentence at the end of this section is published twice. Correct to remove duplicate sentence: “The new directions shall be communicated to the pharmacist on reorder of the drug.” to read:

D. If a physician or other authorized healthcare provider changes the dosage of a medication, a label, which does not obscure the original label, shall be attached to the container which indicates the new dosage, date, and prescriber’s name. In lieu of this procedure, it is acceptable to attach a label to the container that states “see MAR and physician or other authorized healthcare provider orders for current administration instructions.” The new directions shall be communicated to the pharmacist on reorder of the drug.

At 61-93 at 3216.D, correct grammatical typo to change the word “a” to “at” before the word “least” in the second sentence to read:

D. There shall be an adequate number of qualified counselors on staff to ensure that necessary, appropriate and quality counseling and other rehabilitative services are provided in a timely manner. The NTP shall have at least one full time counselor on staff for every 50 clients or fraction thereof. Counselors shall be qualified as specified in Section 504.

At 61-93.1401, correct the words “Blood borne” to “Bloodborne” to read:

1401. Staff practices (I)

Staff practices shall promote conditions that prevent the spread of infectious, contagious, or communicable diseases and provide for the proper disposal of toxic and hazardous substances. These preventive measures/practices shall be in compliance with applicable guidelines of the Bloodborne Pathogens Standard of the Occupational Safety and Health Act (OSHA) of 1970; the Centers for Disease Control and Prevention (CDC); the Department’s Guidelines For Prevention and Control of Antibiotic Resistant Organisms in Health Care Settings, and R.61-105; and other applicable federal, state, and local laws and regulations.

At 61-93.3222.B, correct the misspelled word “medial” to “medical” to read:

B. Close documented monitoring of client clinical condition which may affect the detoxification process, i.e., symptoms of medical and emotional distress;

R.61-97. Standards for Licensing Renal Dialysis Facilities

State Register Doc. 1420, February 26, 1993; State Register Doc. 1061, May 26, 1989

At 61-97.103.A, correct grammatical error by changing the word “conditions” to “condition” to read:

A. Class I violations are those which the Department determines present an imminent danger to the patients of the facility or a substantial probability that death or serious physical harm could result there from. A physical condition, one or more practices, means, methods or operations in use in a facility may constitute such a violation. The condition or practice constituting a Class I violation shall be abated or eliminated immediately unless a fixed period of time, as stipulated by the Department, is required for correction. Each day such violation shall exist after expiration of said time shall be considered a subsequent violation.

At 61-97.310.4, correct the word “that” to “than” to read:

4. blood spills of more than 75 ml.;

16 NOTICES

At 61-97.402.B.4, correct grammatical error by adding an “a” before the word “candidate” to read:

4. Indication whether a candidate for transplantation or home dialysis.

At 61-97.404.1, correct misspelled word “nursed” to “nurse” to read:

1. A registered nurse shall serve as the director of nursing. The director must have at least 18 months of experience in clinical nursing with at least 6 months experience in care of patients with ESRD.

At 61-97.407.A, correct misspelled word “hematacritis” to “hematocrits” to read:

A. Laboratory services shall be provided under contract to meet the needs of the patient except that hematocrits, clothing times and blood glucoses, which the facility uses to monitor its patients, may be done by the dialysis facility’s staff, who are qualified by education and experience to perform such duties under the direction of a physician.

At 61-97.409.F.2, correct grammatical typographical error by changing the letter “a” after the word “manner” to “as” to read:

2. Clean linens shall be handled, stored, processed, and transported in such a manner as to prevent the spread of infection.

At 61-97.2203, correct misspelled word “food” to “foot” in last sentence to read:

2203. Lighting in work area shall never be less than 50 foot-candles.

R.61-102. Standards for Licensing Birthing Centers for Deliveries by Midwives

State Register Doc. 1307, May 24, 1991

At 61-102.C(2)(d)(11) correct misspelled word from Hemoregic” to “hemorrhagic” to read:

- (11) plans for tests/treatments including, but not limited to, PKU, bilirubin, Rh factor, ophthalmic prophylaxis, and prophylaxis for neonatal hemorrhagic disease;

R.61-109. Standards for Permitting Body Piercing Facilities

State Register Doc. 2623, May 24, 2002

At 61-109.103.A.3, first sentence, correct sentence to add after “S.C. Code” the words “of Laws” for consistency with legal citations in other parts of this regulation, to read:

3. Current or previous violations of the S.C. Code of Laws and/or Department regulations may jeopardize the issuance of a permit for the facility or the permitting of any other facility or addition to an existing facility which is owned or operated by the permit holder.

At 61-109.302.F, correct error by adding the word “of” before the words “Laws” to read:

- F. Any decision by the Department to grant, deny, revoke, suspend, or refuse to renew a permit may be appealed by a party with standing in a manner pursuant to the Administrative Procedures Act, Section 1-23-310 et seq., of the S.C. Code of Laws, 1976, as amended.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF STATE FIRE MARSHAL**

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 1-34-30 of the 1976 Code of Laws of South Carolina, as amended, the Department of Labor, Licensing and Regulation, Office of State Fire Marshal hereby adopts the latest edition of the following nationally recognized code.

1. National Fire Protection Association 10, Standard for Portable Fire Extinguishers,
2010 Edition
2. The original promulgating authority for this code is:
National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269
3. This code is reference by:
South Carolina Code of Laws, Section 23-9-45
South Carolina Regulations 71-8300.2(E)

The Office of State Fire Marshal specifically requested comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina and received none. Therefore, the Office of State Fire Marshal will promulgate this latest edition without amendment.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF STATE FIRE MARSHAL**

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 1-34-30 of the 1976 Code of Laws of South Carolina, as amended, the Department of Labor, Licensing and Regulation, Office of State Fire Marshal hereby adopts the latest edition of the following nationally recognized code.

1. National Fire Protection Association 11, Standard for Low-, Medium-, and High-Expansion
Systems, 2010 Edition
2. The original promulgating authority for this code is:
National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269
3. The code is referenced by:
South Carolina Regulations 71-8300.2(F)(1)

The Office of State Fire Marshal specifically requested comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina and received none. Therefore, the Office of State Fire Marshal will promulgate this latest edition without amendment.

18 NOTICES

DEPARTMENT OF LABOR, LICENSING AND REGULATION OFFICE OF STATE FIRE MARSHAL

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 1-34-30 of the 1976 Code of Laws of South Carolina, as amended, the Department of Labor, Licensing and Regulation, Office of State Fire Marshal hereby adopts the latest edition of the following nationally recognized code.

1. National Fire Protection Association 12A, Standard on Halon 1301 Extinguishing Systems, 2009 Edition
2. National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269
3. The code is referenced by:
South Carolina Regulations 71-8300.2(F)(3)

The Office of State Fire Marshal specifically requested comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina and received none. Therefore, the Office of State Fire Marshal will promulgate this latest edition without amendment.

DEPARTMENT OF LABOR, LICENSING AND REGULATION OFFICE OF STATE FIRE MARSHAL

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 1-34-30 of the 1976 Code of Laws of South Carolina, as amended, the Department of Labor, Licensing and Regulation, Office of State Fire Marshal hereby adopts the latest edition of the following nationally recognized code.

1. National Fire Protection Association 22, Standard for Water Tanks for Private Fire Protection, 2008 Edition
2. The original promulgating authority for this code is:
National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269
3. This code is referenced by:
South Carolina Code of Laws, Section 41-10-240(A)
South Carolina Regulations 71-8300.2(G)(9)

The Office of State Fire Marshal specifically requested comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina and received none. Therefore, the Office of State Fire Marshal will promulgate this latest edition without amendment.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF STATE FIRE MARSHAL**

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 1-34-30 of the 1976 Code of Laws of South Carolina, as amended, the Department of Labor, Licensing and Regulation, Office of State Fire Marshal hereby adopts the latest edition of the following nationally recognized code.

1. National Fire Protection Association 52, Utility LP-Gas Plant Code, 2010 Edition
2. The original promulgating authority for this code is:
National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269
3. This code is referenced by:
South Carolina Regulations 71-8300.2(J)

The Office of State Fire Marshal specifically requested comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina and received none. Therefore, the Office of State Fire Marshal will promulgate this latest edition without amendment.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF STATE FIRE MARSHAL**

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 1-34-30 of the 1976 Code of Laws of South Carolina, as amended, the Department of Labor, Licensing and Regulation, Office of State Fire Marshal hereby adopts the latest edition of the following nationally recognized code.

1. National Fire Protection Association 495, Explosive Materials Code, 2010 Edition
2. The original promulgating authority for this code is:
National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269
3. This code is referenced by:
South Carolina Regulations 71-8300.2(W)

The Office of State Fire Marshal specifically requested comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina and received none. Therefore, the Office of State Fire Marshal will promulgate this latest edition without amendment.

20 NOTICES

DEPARTMENT OF LABOR, LICENSING AND REGULATION OFFICE OF STATE FIRE MARSHAL

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 1-34-30 of the 1976 Code of Laws of South Carolina, as amended, the Department of Labor, Licensing and Regulation, Office of State Fire Marshal hereby adopts the latest edition of the following nationally recognized code.

1. National Fire Protection Association 750, Standard on Water Mist Fire Protection Systems, 2010 Edition
2. The original promulgating authority for this code is:
National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269
3. This code is referenced by:
South Carolina Regulations 71-8300.2(F)(6)

The Office of State Fire Marshal specifically requested comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina and received none. Therefore, the Office of State Fire Marshal will promulgate this latest edition without amendment.

DEPARTMENT OF LABOR, LICENSING AND REGULATION OFFICE OF STATE FIRE MARSHAL

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 1-34-30 of the 1976 Code of Laws of South Carolina, as amended, the Department of Labor, Licensing and Regulation, Office of State Fire Marshal hereby adopts the latest edition of the following nationally recognized code.

1. National Fire Protection Association 2010, Standard for Fixed Aerosol Fire-Extinguishing Systems, 2010 Edition
2. The original promulgating authority for this code is:
National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269
3. This code is referenced by:
South Carolina Regulations 71-8300.2(F)(8)

The Office of State Fire Marshal specifically requested comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina and received none. Therefore, the Office of State Fire Marshal will promulgate this latest edition without amendment.

DEPARTMENT OF AGRICULTURE**CHAPTER 5**

Statutory Authority: 1976 Code Section 39-25-180

Notice of Drafting:

The South Carolina Department of Agriculture is considering modernizing, clarifying and updating existing regulations which govern, to the extent authorized by the S.C. Code, Title 39, Chapter 25, the inspection and regulation of food products.

Interested parties should submit written comments to Anne E. Crocker, South Carolina Department of Agriculture, P. O. Box 11280, Columbia, SC 29211-1280. To be considered, comments should be received no later than July 31, 2010, the close of the drafting comment period.

Synopsis:

This regulation is being promulgated to comply with the Federal Food, Drug and Cosmetic Act. This regulation will, in effect, adopt the current and appropriate Federal Food, Drug and Cosmetic Act Regulations for food products manufactured in South Carolina. The regulation will also be amended to set forth any additional standards and procedures necessary to ensure the safety of food products manufactured in South Carolina.

These proposed regulations will require legislative action.

CLEMSON UNIVERSITY**STATE CROP PEST COMMISSION****CHAPTER 27**

Statutory Authority: 1976 Code Section 46-9-40

Notice of Drafting:

The State Crop Pest Commission is contemplating amending Regulation 27-78, a quarantine imposed for *Phytophthora ramorum*. The amended regulation would be designed to closely follow the newly promulgated federal order requiring prenotification of shipments by shippers of certain nursery material from quarantined or regulated areas affected by *Phytophthora ramorum*. The existing requirement of a phytosanitary certificate for such shipments would be deleted. Please address all comments to Dr. David Howle, 511 Westinghouse Road, Pendleton, S.C. 29670. To be considered, comments must be received no later than 5:00 P.M., Monday, July 26, 2010, the close of the drafting comment period.

Synopsis:

The plant pathogen, *Phytophthora ramorum*, manifests itself in a disease known as Sudden Oak Death or as ramorum blight. Certain areas of certain states are under either quarantine actions, or have had certain areas designated as regulated areas by USDA in an attempt to prevent the spread of the disease, which would pose a serious threat to the export market and to domestic agricultural, horticultural and silvicultural activities. The federal authorities have recently promulgated an order requiring prenotification to receiving states of shipment of host plant materials by nursery plant shippers located in the areas either quarantined or regulated for this plant pest. The proposed amendment would result in conformity, insofar as possible, with the new federal order.

Legislative review of this proposal will be required.

22 DRAFTING NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control proposes to repeal R.61-99, Hazardous Waste Management Planning. Interested persons may submit their views in writing to Richard Haynes, PE, Director, Division of Waste Management, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201. To be considered, comments must be received by 5:00 p.m. on July 26, 2010, the close of the drafting comment period.

Synopsis:

This regulation was promulgated January 26, 1990 and published as a final regulation in the State Register, Vol. 14, Issue No. 2. It requires a “demonstration of need” before any applicant can receive a permit to establish or expand a hazardous waste management facility. This need can be demonstrated only by reference to the volume of in-state wastes.

On April 13, 1995, the United States District Court ruled: South Carolina Department of Health and Environmental Control Regulation 61-99 (III) (C) is declared invalid and is permanently enjoined. *Environmental Technology Council v State of SC*, 901 F. Supp. 1026 (D.S.C., 1995).

The Court held Regulation 61-99 (III) (C) discriminated against interstate commerce in violation of the Commerce Clause. The District Court ruling was upheld on appeal.

Legislative review of this repeal will not be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-1-140 and 44-1-150

Notice of Drafting:

The Department of Health and Environmental Control proposes to substantially amend R. 61-25, Retail Food Establishments. Interested persons may submit comments to Ms. Sandra D. Craig, Director, Division of Food Protection, Bureau of Environmental Health, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201-1708. Comments submitted must be received by 5:00 p.m. on July 26, 2010, the close of the drafting comment period.

Synopsis:

R. 61-25, Retail Food Establishments, was last amended in 1995. Since that amendment, there have been numerous changes in the retail food industry, including food handling practices, food equipment technology, and food preparation processes, making R. 61-25, in its current form, outdated. Proposed amendments will address these industry changes, as well as incorporating applicable requirements and information from the United States Food and Drug Administration (FDA) 2009 Model Food Code. Also, stylistic changes will be made in the regulation format to make South Carolina’s regulation more consistent with the FDA’s 2009 Model Food Code.

This proposed regulation amendment will require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 44-1-140 and 44-1-180

Notice of Drafting:

The Department of Health and Environmental Control proposes to promulgate a new regulation, R. 61-25.1, Retail Food Establishment Plan Review. Interested persons may submit comments to Ms. Sandra D. Craig, Director, Division of Food Protection, Bureau of Environmental Health, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201-1708. Comments submitted must be received by 5:00 p.m. on July 26, 2010, the close of the drafting comment period.

Synopsis:

R. 61-25.1, Retail Food Establishment Plan Review, will specify the requirements for submittal and review of plans and specifications for retail food establishments regulated by the Department, and will set fees charged for review and approval of construction plans and specifications. This service is essential to insure that facilities are built, or remodeled, in compliance with R.61-25, Retail Food Establishments; ensuring that a facility meets the requirements of the regulation provides the facility with better opportunities for success. Dwindling resources and budget reductions have negatively impacted the Department's ability to provide this service in a timely and efficient manner, which, in turn, negatively impacts growth and development in South Carolina's food service industry; the implementation of this fee regulation will help offset that situation and will allow the Department to provide the service more quickly and efficiently.

This proposed regulation will require legislative review.

24 PROPOSED REGULATIONS

Document No. 4131

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

61-62. Air Pollution Control Regulations and Standards

Preamble:

The United States Environmental Protection Agency (EPA) promulgates amendments to 40 CFR Parts 51, 60, 61, 63 and 72 throughout each calendar year. Recent federal amendments include clarification, guidance and technical amendments regarding New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and NESHAP for Source Categories.

The Department proposes to amend Regulation 61-62.1, Definitions and General Requirements, and the State Implementation Plan (SIP) to incorporate amendments to the definition of Volatile Organic Compounds (VOCs) promulgated by the EPA on January 21, 2009. The Department also proposes to amend Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards; 61-62.61, National Emission Standards for Hazardous Air Pollutants; 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories; and 61-62.72, Acid Rain, to incorporate by reference recent federal amendments promulgated from January 1, 2009, through December 31, 2009. The Department also proposes to amend Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards, Subpart I, Standards of Performance for Asphalt Concrete Plants, to change the name of the Subpart to match 40 CFR 60 Subpart I. Pursuant to S.C. Code Section 1-23-120(H)(1), the proposed amendments in this Notice will not be more stringent than the current federal requirements and thus do not require legislative review.

A Notice of Drafting was published in the State Register and on the Bureau of Air Quality Regulatory Development website on February 26, 2010. Notice of the Department's intent to draft these regulations was also published on the DHEC Regulatory Internet site in its DHEC Regulation Development Update. No comments were received. Since this amendment is consistent with federal law, neither a preliminary fiscal impact statement nor a preliminary assessment report is required.

Discussion of Proposed Revisions:

SECTION CITATION/EXPLANATION OF CHANGE:

Regulation, 61-62.1, Subpart A, Definitions:

The definition of Volatile Organic Compounds is revised to add propylene carbonate and dimethyl carbonate to the list of chemicals that are excluded as Volatile Organic Compounds.

Regulation, 61-62.60:

Tables in Subparts A, Ce, D, Da, Db, Dc, Ec, Y, NNN, OOO, and KKKK are amended to incorporate revisions by reference.

Regulation, 61-62.60:

Title of Subpart I is corrected.

Regulation, 61-62.61:

Table in Subpart A is amended to incorporate revisions by reference.

Regulation, 61-62.63:

Tables in Subparts A, CC, and YYYYYY are amended to incorporate revisions by reference.

Regulation, 61-62.63:

Subparts VVVVVV, ZZZZZZ, AAAAAA, BBBBBB, and CCCCCC are added and incorporate regulations by reference.

Regulation, 61-62.72:

Table in Subpart A is amended to incorporate revisions by reference.

Notice of Staff Informational Forum and Public Comment Period:

Staff of the South Carolina Department of Health and Environmental Control invites interested members of the public to attend a staff-conducted informational forum to be held on July 26, 2010, at 10:00 a.m. in the Wallace Room (3141) at the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The purpose of the forum is to answer questions, clarify any issues, and receive comments from interested persons on the proposed amendments to Regulation 61-62, Air Pollution Control Regulations and Standards and the SIP. Please use the Bull Street entrance.

Interested persons are also provided an opportunity to submit written comments to Alan Hancock by mail at Bureau of Air Quality, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201; by facsimile at (803) 898-4117; or by e-mail at hancocam@dhec.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on July 26, 2010, the close of the comment period. Comments received at the forum or during the write-in public comment period by the deadline requested above shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Alan Hancock at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201; by calling (803) 898-4139; or by emailing hancocam@dhec.sc.gov. A copy may also be obtained on the Department's Regulatory Information Internet Site at <http://www.scdhec.gov/administration/regs/> in its DHEC Regulation Development Update. To access this document, click on the Air category, then scan down for this proposed amendment.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to comment on the proposed amendments to Regulation 61-62, Air Pollution Control Regulations and Standards, and the SIP at a public hearing to be conducted by the Board of the South Carolina Department of Health and Environmental Control at its regularly-scheduled meeting on November 10, 2010. The public hearing is to be held in room 3420 (Board Room) of the Commissioner's Suite, third floor, Aycock Building of the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department twenty-four hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation to the Clerk of the Board for inclusion for the record.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION:

26 PROPOSED REGULATIONS

Purpose: The Department proposes to amend Regulation 61-62.1, Definitions and General Requirements, and the SIP to incorporate amendments to the definition of Volatile Organic Compounds (VOCs) promulgated by the EPA on January 21, 2009. The Department also proposes to amend Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards; 61-62.61, National Emission Standards for Hazardous Air Pollutants; 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories; and 61-62.72, Acid Rain, to incorporate by reference recent federal amendments promulgated from January 1, 2009, through December 31, 2009. The Department also proposes to amend Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards, Subpart I, Standards of Performance for Asphalt Concrete Plants to change the name of the Subpart to match 40 CFR 60 Subpart I.

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

Plan for Implementation: The proposed amendments will take effect upon approval by the Board of Health and Environmental Control and publication in the State Register. The proposed amendments will be implemented by providing the regulated community with copies of the regulation, and sending an email to stakeholders.

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

The EPA promulgates amendments to 40 CFR Parts 51, 60, 61, 63 and 72 throughout each calendar year. Recent federal amendments include clarification, guidance and technical amendments regarding New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and NESHAP for Source Categories. States are mandated by law to adopt these federal amendments. These amendments are reasonable as they promote consistency and ensure compliance with both State and federal regulations.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions resulting from this proposed revision. The standards to be adopted are already effective and applicable to the regulated community as a matter of federal law, thus regulated community has already incurred the cost of these regulations. The proposed amendments will benefit the regulated community by clarifying the regulations and increasing their ease of use.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the State or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

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

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

The State's authority to implement federal requirements, which are beneficial to the public health and environment, would be compromised if these amendments were not adopted in South Carolina.

Text:

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

Document No. 4130
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

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

61-62.1. Definitions and General Requirements
61-86.1. Standards of Performance for Asbestos Projects

Preamble:

Pursuant to S.C. Code Section 48-1-50, the South Carolina Department of Health and Environmental Control (Department) proposes to amend S.C. Regulation 61-62, Air Pollution Control Regulations and Standards, Regulation 61-86.1, Standards of Performance for Asbestos Projects, and the State Implementation Plan (SIP) to correct typographical errors, update definitions, provide clarification, simplify the permit process, and delete or update obsolete requirements to ensure that we are efficiently and effectively meeting our goals of promoting and protecting the public health and the environment.

In particular, the Department proposes to amend R.61-62.1, Definitions and General Requirements, and the SIP to update and correct definitions and permit requirements; R. 61-62.5, Standard 1, Emissions From Fuel Burning Operations, to exclude the requirement for natural gas fired units to maintain a log of periods of startup and shutdown; R. 61-62.5, Standard 2, Ambient Air Quality Standards, to remove the standard for Total Suspended Particle (TSP) and update the exceedance limitation for the carbon monoxide (CO) standard; R.61-62.5, Standard No. 4, Emissions from Process Industries, to modify the regulatory strategy for cotton gins; and clarify the definition for major source threshold throughout 61-62. The Department also proposes to delete R. 61-62.5, Standard 6, Alternative Emission Limitation Options ("Bubble"); and update R. 61-62 to correct typographical errors, correct grammatical errors, provide clarification, and delete or update obsolete requirements to improve overall quality of the reg.

The Department also proposes to amend R. 61-86.1, Standards of Performance for Asbestos Projects, to revise Section XX.A.4 and add Section XX.J.3 to change the required frequency of building inspections for industrial manufacturing and electrical generating facilities from 3 years to 5 years.

Pursuant to S.C. Code Section, 1-23-120(H)(1), the proposed amendments to R. 61-62, Air Pollution Control Regulations and Standards, R. 61-86.1, Standards of Performance for Asbestos Projects, and the SIP will require legislative review.

Notices of Drafting were published in the South Carolina *State Register* on September 26, 2008, in Volume 32, Issue No. 9; and on February 26, 2010, in Volume 34, Issue No. 2. The purpose of the second Notice of Drafting was to extend the drafting period initially established by the September 26, 2008, drafting notice. The latest drafting comment period ended on March 29, 2010.

Discussion of Proposed Revisions:

SECTION CITATION/EXPLANATION OF CHANGE:

S.C. Regulation 61-62.1, Definitions and General Requirements

28 PROPOSED REGULATIONS

R. 61-62.1, Section I – Definitions:

Added definition “15. CAA - The Clean Air Act, as amended, 42 U.S.C. 7401 et seq. Also referred to as “the Act.”

R. 61-62.1, Section I – Definitions:

Amended definition for “Conditional major source” to replace, “in S.C. Regulation 61-62.70, Title V Operating Permit Program” with “by applicable Federal and State regulations” in order to take into account all federal requirements for major sources.

R. 61-62.1, Section I Definitions:

Clarified definition for “Department” to include reference to the “South Carolina” Department of Health and Environmental Control.

R. 61-62.1, Section I – Definitions:

Included “40 CFR sections 61, 63, and 70” in definition for “federally enforceable” in order to clarify applicability of Federal NESHAP and Title V regulations.

R. 61-62.1, Section I Definitions:

Changed the definition of “Fugitive Emissions” to be consistent with 40 CFR 51.166.

R. 61-62.1, Section I – Definitions:

Renamed definition of “Major Plant” to “Major source” for consistency and amended the definition to replace “one hundred tons per year or more of any regulated air pollutant” with “greater than or equal to the major source threshold as defined by applicable Federal and State regulations” in order to take into account all federal requirements for major sources.

R. 61-62.1, Section I - Definitions:

Moved and renumbered definitions for “PM₁₀” and “PM₁₀ Emissions” to appropriate alphabetic place in definitions. Also deleted an unnecessary date reference in “PM₁₀.”

R. 61-62.1, Section I – Definitions:

Added definition: “64. PM_{2.5} – Particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by a reference method based on Appendix L of 40 CFR 50 and designated in accordance with 40 CFR 53 or by an equivalent method designated in accordance with 40 CFR 53.”

R. 61-62.1, Section I – Definitions:

Added definition: “65. PM_{2.5} Emissions - Finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by a reference method approved by the Department, with concurrence of the U. S. Environmental Protection Agency.”

R. 61-62.1, Section I – Definitions:

Amended definition for “Secondary Emissions” to replace instances of word “plant” with “source” to maintain consistency throughout all regulations.

R. 61-62.1, Section I – Definitions:

Renamed definition “Synthetic minor plant” to “Synthetic minor source” for consistency and amended the definition to replace “as defined in S.C. Regulation 61-62.5, Standard No. 7, Section I, Prevention of Significant Deterioration (“PSD”)” with “by applicable Federal and State regulations” in order to take into account all federal requirements for major sources.

R. 61-62.1, Section I - Definitions:

The definition of “Volatile Organic Compounds” is revised to add propylene carbonate and dimethyl carbonate to the list of chemicals that are excluded as Volatile Organic Compounds.

R. 61-62.1, Section I – Definitions:

Renumbered definitions in alpha-numeric order from definition 15 to end as needed for consistency.

R. 61-62.1, Section II – Permit Requirements:

Added introductory paragraph before subsection II.A: “The following regulation will not supersede any State or Federal requirements nor special permit conditions, unless this regulation would impose a more restrictive emission limit. The owner or operator shall comply with all terms, conditions, and limitations of any Department-issued permit for sources or activities at its facility. A source’s permit status may change upon promulgation of new regulatory requirements” and deleted sections (A)(1)(a) and (A)(4) to clarify terms that apply to all permits.

R. 61-62.1, Section II.A.1.a:

Section deleted and information included in the aforementioned new Section II introductory paragraph.

R. 61-62.1, Section II.A.4:

Section deleted and information included in the aforementioned new Section II introductory paragraph.

R. 61-62.1, Section II.A.5:

Reformatted the requirements necessary to extend construction permits and renumbered as necessary.

R. 61-62.1, Section II.A(1):

Enumerated last paragraph for section outline codification.

R. 61-62.1, Section II.A:

Enumerated last paragraph for section outline codification.

R. 61-62.1, Section II.B.2.h:

Added provision: “emissions calculations and any other information necessary to document qualification for this exemption must be maintained onsite and provided to the Department upon request” to require facilities to keep pertinent information for this exemption on site.

R. 61-62.1, Section II.B.3:

Changed the wording with regard to sources placed on a list of sources that are exempt without further review from the requirement to obtain a construction permit from “to have total uncontrolled emissions less than the thresholds in Section II (B)(2)(h)” to “will not interfere with the attainment or maintenance of any State or Federal Standard.”

R. 61-62.1, Section II.B.4:

Changed wording from “whose only emissions are fugitive” to “with only fugitive emissions” for simplicity.

R. 61-62.1, Section II.B.6:

Added the sentence “The Department reserves the right to require a construction permit and 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.” to allow for the requirement of construction permits for facilities where other avenues of compliance are ineffective.

30 PROPOSED REGULATIONS

R. 61-62.1, Section II.C.3.c:

Corrected to specify that a facility's Federal "Employer" Identification is necessary and added "Federal Tax ID Number" for clarity.

R. 61-62.1, Section II.C.3.d:

Amended to require applications include Standard Industrial Classification (SIC) and North American Industry Classification System (NAICS) codes.

R. 61-62.1, Section II.G.4:

Added "or modified" to the title.

R. 61-62.1, Section II.H.4.c:

Corrected to specify that a facility's Federal "Employer" Identification is necessary and added "Federal Tax ID Number" for clarity.

R. 61-62.1, Section II.I.1.b:

Corrected typographical and punctuation errors.

R. 61-62.1, Section II.I.2.a:

Revised to add "The Department reserves the right to require a construction or operating permit and 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." after the first sentence to allow for Department discretion in requiring a construction permit.

R. 61-62.1, Section II.I.3.a:

Reworded to specify that Registration Permits should contain any "applicable" conditions to simplify permit process as the department finds appropriate.

R. 61-62.1, Section II.J.1:

Specified that the permit conditions apply to "construction and operating" permits.

R. 61-62.1, Section II.J.1.b:

Added "Any false information or misrepresentation in the application for a construction or operating permit may be grounds for permit revocation." to provide for penalties for providing false information.

R. 61-62.1, Section II.J.1:

Added section: "g. A copy of the Department issued construction and/or operating permit must be kept readily available at the facility at all times. The permittee shall maintain such operational records; make reports; install, use, and maintain monitoring equipment or methods; sample and analyze emissions or discharges in accordance with prescribed methods, at locations, intervals, and procedures as the Department shall prescribe; and provide such other information as the Department reasonably may require. All records required to demonstrate compliance with the limits established under this permit shall be maintained on site for a period of at least five (5) years" To allow for record retention and availability clause in permits.

R. 61-62.1, Section II.N.5:

Removed reference to operating permits since the section only refers to construction permits.

R. 61-62.1, Section II:

Added new section: "O. Inspection and Entry," which allows for inspection and entry of regulated facilities pursuant to the Pollution Control Act.

S.C. Regulation 61-62.3, Air Pollution Episodes

R. 61-62.3, Sections I.2 through 3:
Corrected grammar by adding “or” for clarification.

R. 61-62.3, Section I.4:
Corrected typographical error in units of PM₁₀, SO₂, and O₃ by changing to µg/m³.

S.C. Regulation 61-62.5, Standard 1, Emissions From Fuel Burning Operations

R. 61-62.5, Standard 1, Section I.C:
Excluded the requirement for natural gas fired units to maintain a log of periods of startup and shutdown.

S.C. Regulation 61-62.5, Standard 2, Ambient Air Quality Standards

Amended table to delete TSP standard. Also included exceedence limitation footnote for CO standard and reference for rolling 3-month average calculation for lead.

S.C Regulation 61-62.5, Standard 4, Emissions From Process Industries

R. 61-62.5, Standard 4, Section V – Cotton Gins:
Amending entirety of section to go from a process rate based regulation to control based regulation.

R. 61-62.5, Standard 4, Section XII.B – Total Reduced Sulfur:
Amended such that the obsolete requirement for TRS stack testing will not be required for facilities that are already required to have CEMs installed.

S.C. Regulation 61-62.5, Standard 6, Alternative Emission Limitation Options (“Bubble”)

Based on the United States Environmental Protection Agency (EPA) disapproval of this regulation in the SC State Implementation Plan (SIP), the entirety of this regulation is being removed and reserved.

S.C. Regulation 61-62.5, Standard 7, Prevention of Significant Deterioration

R. 61-62.5, Standard 7.q.2:
Replaced instances of “plant” with “source” to maintain consistency throughout the regulations.

R. 61-62.5, Standard 7.q.3:
Replaced “Review of Major Stationary Sources and Major Modifications” with “Exemptions” to correct reference error.

R. 61-62.5, Standard 7.r.4:
Replaced (s) with (r) to correct reference error.

R. 61-62.5, Standard 7.w.1:
Removed reference to “paragraph (s)” due to reference error.

S.C. Regulation 61-62.5, Standard 7.1, Non Attainment New Source Review

R. 61-62.5, Standard 7.1.c.7.A:
Expanded definition of “Major Stationary Source” to account for ozone designations under subpart 2 of the Clean Air Act.

32 PROPOSED REGULATIONS

S.C. Regulation 61-86.1, Standards of Performance for Asbestos Projects

R. 61-86.1, Section XX.A.4:

Added exemption for building inspection frequency for industrial manufacturing and electrical generating facilities.

R. 61-86.1, Section XX.J.3:

Added text to change the required frequency of building inspections for industrial manufacturing and electrical generating facilities from 3 years to 5 years.

Notice of Staff Informational Forum and Public Comment Period:

Staff of the South Carolina Department of Health and Environmental Control invites interested members of the public to attend a staff-conducted informational forum to be held on July 26, 2010, at 2:00 p.m. in the Wallace Room (3141) at the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The purpose of the forum is to answer questions, clarify any issues, and receive comments from interested persons on the proposed amendments to R. 61-62.1, Definitions and General Requirements, and R. 61-86.1, Standards of Performance for Asbestos Projects, and the SIP.

Interested persons are also provided an opportunity to submit written comments to Andrew O. Hollis at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, by facsimile at (803) 898-4117; or by e-mail at hollisao@dhec.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on July 26, 2010. Comments received at the forum or during the write-in public comment period shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Andrew O. Hollis at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, by calling (803) 898-4196; or by emailing hollisao@dhec.sc.gov. A copy may also be obtained on the Department's Regulatory Information Internet Site at <http://www.scdhec.gov/administration/regs/> in its DHEC Regulation Development Update. To access this document, click on the Air category, then scan down for this proposed amendment.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to comment on the proposed amendments to R. 61-62.1, Definitions and General Requirements, and R. 61-86.1, Standards of Performance for Asbestos Projects, and the SIP at a public hearing to be conducted by the Board of the South Carolina Department of Health and Environmental Control at its regularly-scheduled meeting on October 14, 2010. The public hearing is to be held in room 3420 (Board Room) of the Commissioner's Suite, third floor, Aycock Building of the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department twenty-four hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION:

Purpose: The proposed amendments to S.C. Regulation 61-62, Air Pollution Control Regulations and Standards, and the State Implementation Plan (SIP), will support the Department's goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner. These amendments will expand and clarify definitions applicable to air pollution control regulations and standards, streamline permitting options, as well as correct problems with the current regulatory strategy applicable to cotton gins.

The proposed amendments to S.C. Regulation 61-86.1, Standards of Performance for Asbestos Projects, will address requests made during the legislative approval of the previous version of this regulation by reducing the frequency of building inspections for industrial manufacturing and electrical generating facilities.

Legal Authority: The legal authority for R. 61-62, Air Pollution Control Regulations and Standards, is S.C. Code of Laws, Sections 48-1-10 et seq., 1976, as amended.

The legal authority for R. 61-86.1, Standards of Performance for Asbestos Projects, is S.C. Code of Laws, Sections 44-1-140, 48-1-30, and 44-87-10 et seq.

Plan for Implementation: The proposed amendments will take effect upon approval by the Board of Health and Environmental Control and the S.C. General Assembly, and publication in the *State Register*. The proposed amendments 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 Department proposes to amend R. 61-62 and the SIP. In particular, the Department will amend R. 61-62.1, Definitions and General Requirements, to update and correct definitions and permit requirements; R. 61-62.5, Standard 1, Emissions From Fuel Burning Operations, to exclude the requirement for natural gas fired units to maintain a log of periods of startup and shutdown; R. 61-62.5, Standard 2, Ambient Air Quality Standards, to remove the standard for Total Suspended Particle (TSP) and update the exceedance limitation for the carbon monoxide (CO) standard; R.61-62.5, Standard No. 4, Emissions from Process Industries, to modify the regulatory strategy for cotton gins; and clarify the definition for major source threshold throughout 61-62. The Department also proposes to delete R. 61-62.5, Standard 6, Alternative Emission Limitation Options ("Bubble"); and update the entirety of R. 61-62 to correct typographical errors, provide clarification, delete or update obsolete requirements.

The Department also proposes to amend R. 61-86.1, Standards of Performance for Asbestos Projects, to revise Section XX.A.4 and add Section XX.J.3 to change the required frequency of building inspections for industrial manufacturing and electrical generating facilities from 3 years to 5 years.

The intent of these amendments is to simplify and correct certain issues in our regulatory guidelines to support the Department's goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner. There would be no detrimental effect on the environment and public health if the proposed amendments to R. 61-62, Air Pollution Control Regulations and Standards, R. 61-86.1, Standards of Performance for Asbestos Projects, and the SIP are adopted, in fact, improvements to the regulatory strategy for cotton gins will enhance air quality in some areas.

34 PROPOSED REGULATIONS

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions. Some cotton gins may incur added costs due to the addition of required controls, but these costs will be offset by the use of registration permits for cotton gins as indicated in the proposed changes. The proposed amendments to R. 61-62, Air Pollution Control Regulations and Standards, and R. 61-86.1, Standards of Performance for Asbestos Projects, and the SIP will benefit the regulated community and the Department by expanding and clarifying definitions applicable to air pollution control regulations and standards, streamlining permitting options, and reducing unnecessary requirements.

The proposed amendments to R.61-62.5, Standard No. 4, Emissions from Process Industries, may result in increased costs for some cotton ginning facilities associated with installing the necessary control equipment. However, the revised regulatory strategy was developed through an extensive stakeholder process and represents a compromise to include a registration permit option that would at the same time decrease the costs associated with obtaining permits to construct/operate.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the State or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments to R. 61-62, Air Pollution Control Regulations and Standards, R.61-86.1, Standards of Performance for Asbestos Projects, and the SIP, will provide continued protection of the environment and public health.

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

There will be no detrimental effect on the environment and/or public health associated with these revisions. Rather, proposed changes to R. 61-62.4, Standard 4, involving the regulatory strategy for cotton gins will be more stringent than the previous process rate based emission limitations as the proposed revisions require the addition of industry standard air pollution control devices, control of emissions from specific point sources in the ginning process, and enforceable monitoring and recordkeeping.

Statement of Rationale:

The Department began this process by developing an internal workgroup to evaluate the existing air quality regulations to provide clarification, delete or update obsolete requirements, and correct typographical errors as necessary.

The Department also held several external stakeholder meetings to take recommendations and comments on those regulatory amendments identified by the workgroup. The amendments to R. 61-62, R. 61-86.1, and the SIP were developed by consensus. These regulatory amendments will provide clarity and specificity to the existing regulations, omit obsolete requirements, and provide additional permitting options to the regulated community.

Text:

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

Document No. 4132
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
 Statutory Authority: 1976 Code Sections 44-93-10 et seq. and 48-2-10

61-30. Environmental Protection Fees

Preamble:

Regulation 61-30 prescribes those fees applicable to applicants and holders of permits, licenses, certificates and certifications, and establishes schedules for timely action on permit applications. This regulation also establishes procedures for the payment of fees, provides for the assessment of penalties for nonpayment, and establishes an appeals process to contest the calculation of applicability. The Department is proposing amendment of R.61-30 to increase fees for specific Radioactive Material Licenses. Legislative review is required.

A Notice of Drafting for this amendment was published in the State Register on March 26, 2010. See discussion of proposed revisions below and a fiscal impact statement and a statement of need and reasonableness provided herein.

Discussion of Proposed Revisions:

SECTION CITATION AND EXPLANATION OF CHANGE

61-30.G(5)(i)

Radioactive materials licenses – fee increase for irradiator (unshielded)

61-30.G(5)(j)

Radioactive materials licenses – fee increase for irradiator (self-contained)

61-30.G(5)(k)

Radioactive materials licenses – fee increase for large quantity source and corrects typo

61-30.G(5)(l)

Radioactive materials licenses – fee increase for industrial radiography (in-plant only)

61-30.G(5)(m)

Radioactive materials licenses – fee increase for industrial radiography (temporary field site)

61-30.G(5)(n)

Radioactive materials licenses – fee increase for general license for distribution

61-30.G(5)(o)

Radioactive materials licenses – fee increase for medical institution

61-30.G(5)(p)

Radioactive materials licenses – fee increase for teletherapy

61-30.G(5)(q)

Radioactive materials licenses – fee increase for industrial gauges

36 PROPOSED REGULATIONS

61-30.G(5)(r)

Radioactive materials licenses – fee increase for laboratories-commercial/medical

61-30.G(5)(s)

Radioactive materials licenses – fee increase for educational institution

61-30.G(5)(t)

Radioactive materials licenses – fee increase for nuclear pharmacy

61-30.G(5)(u)

Radioactive materials licenses – fee increase for medical private practice

61-30.G(5)(v)

Radioactive materials licenses – fee increase for portable gauges

61-30.G(5)(w)

Radioactive materials licenses – fee increase for gas chromatograph

61-30.G(5)(x)

Radioactive materials licenses – fee increase for services/consultants

61-30.G(5)(y)

Radioactive materials licenses – fee increase for bone mineral analyzer

61-30.G(5)(z)

Radioactive materials licenses – fee increase for eye applicator

61-30.G(5)(aa)

Radioactive materials licenses – fee increase for medical/academic broad license

61-30.G(5)(bb)

Radioactive materials licenses – fee increase for well logging

61-30.G(5)(cc)

Radioactive materials licenses – fee increase for mobile scanning services

61-30.G(5)(dd)

Radioactive materials licenses – fee increase for decontamination/nuclear laundry

61-30.G(5)(ee)

Radioactive materials licenses – fee increase for all other

61-30.G(5)(ff)

Add section for general licensee registrant fee. (Previously incorporated in (5)(q). Industrial Gauges.) No fee increase.

Notice of Staff Informational Forum and Public Comment Period:

Staff of the Department of Health and Environmental Control invites interested members of the public to attend a staff-conducted informational forum to be held on July 26, 2010, at 11:00 a.m. in the McNeely Conference Room at the Department of Health and Environmental Control at 1700 St. Julian Place, Columbia, S.C. 29204. The purpose of the forum is to answer questions, clarify issues, and receive public comments from interested parties on the proposed amendment of R.61-30.

Interested persons are also provided an opportunity to submit written comments on the proposed amendment by writing to Aaron Gantt, Chief, Bureau of Radiological Health at South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201. To be considered, written comments must be received no later than 5:00 p.m. July 26, 2010.

Comments received at the forum and/or submitted in writing by the close of the public comment period as noticed above shall be considered by staff in formulating the final text of the proposed regulations and shall be submitted in a Summary of Public Comments and Department Responses for consideration by the Board of Health and Environmental Control at the public hearing scheduled for September 9, 2010, as noticed below.

Copies of the proposed regulation for public notice and comment may be obtained by contacting James Peterson at South Carolina Department of Health and Environmental Control, Bureau of Radiological Health, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 545-4400. Also, electronic copies may be obtained from the Department's Regulatory information internet website in its *DHEC Regulation Development Update* at <http://www.scdhec.gov/regulatory.htm> (click on the *Update*, then the Radiological Health category, and scan down for this proposed amendment).

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 Board of Health and Environmental Control at its regularly-scheduled meeting on September 9, 2010 to be held in Room 3420 (Board Room) of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Preliminary Fiscal Impact Statement:

No additional cost will be incurred by the State or its political subdivisions by the implementation of this amendment. Existing staff and resources will be utilized to implement this amendment to the regulation. The amendment will create additional costs to the regulated community because of increased licensing fees.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: R.61-30, Environmental Protection Fees, was promulgated June 23, 1995, pursuant to the Environmental Protection Fund Act of 1993, S.C. Code Section 48-2-10 et seq. This regulation prescribes those fees applicable to applicants and holders of permits, licenses, certificates and certifications, and establishes schedules for timely action on permit applications. This regulation also establishes procedures for the payment of fees, provides for the assessment of penalties for nonpayment, and establishes an appeals process to contest the calculation of applicability.

Purpose: The Department is proposing amendment of R.61-30 to increase fees for Radioactive Materials Licenses and reciprocity licensees.

Legal Authority: S.C. Code Sections 48-2-10 and 44-93-10 et seq. and Atomic Energy and Radiation Control Act 13-7-45 et seq.

38 PROPOSED REGULATIONS

Plan for Implementation: The proposed amendments would be incorporated within R.61-30 upon approval of the Board of Health and Environmental Control, the General Assembly, and publication in the State Register. The proposed amendments will be implemented in the same manner in which the existing regulation is implemented.

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

South Carolina is a U.S. Nuclear Regulatory Commission (NRC) Agreement State, and as such, the NRC has relinquished authority to the State to regulate the use of radioactive materials. With the advent of increased terrorist threats against the U.S. in recent years, the NRC has implemented numerous additional security requirements governing the possession, use and disposal of radioactive material. These regulatory amendments are required to be adopted by Agreement States and thus the associated cost to implement is also incurred. The most significant to date are the Increased Controls (IC's) requirement and the National Source Tracking System (NSTS). These requirements place additional responsibilities on staff and cause an increased need for program resources. Pre-licensing visits/inspections as well as actual license delivery visits are now an additional part of the Bureau's responsibility.

The Department is required by statute, Section 13-7-45, S.C. Code, to set and collect fees "sufficient, in the judgment of the department, to protect the public health and safety and the environment and to recover the costs incurred by the department in regulating the use of ionizing radiation." Due to increased NRC requirements, inflation, and cuts in State appropriations, the department no longer collects fees sufficient to cover the costs of the program. Therefore, increased fees are needed.

DETERMINATION OF COSTS AND BENEFITS:

Radioactive Material Licensees are charged an annual fee according to the various categories of facilities. These fees are based on the U.S. Nuclear Regulatory Commission's fee schedule. Historically, Agreement State fees are substantially lower than the NRC's fees. The last time Radioactive Material Licensing Fees were increased in this state was 2003. The proposed fees will increase South Carolina's fees to 50% of the NRC's current fee schedule. This will be an across the board increase, including fees for reciprocity. There is a benefit to radioactive materials licensees with the increased fees. If South Carolina were to lose its agreement state status due to inadequate funding of the state program, licensing of radioactive materials would revert to the NRC and the licensing fees would be twice what the proposed fees are. In addition, licensing would occur at the federal level, rather than the state level, leading to decreased ability of regulated facilities to interact with regulatory staff and less opportunity to influence regulatory decisions.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties associated with the proposed amendments to R. 61-30.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There is no effect on the environment or public health from increasing fees for radioactive material licenses.

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

A greater risk of public exposure exists if the program is not able to carry out timely and thorough inspections with a well trained staff of inspectors. Federal law and NRC's Agreement State Program requires the department to operate at a specific level of activity and with trained personnel.

Statement of Rationale:

The proposed fee increase will allow the Department to collect enough fees to cover the program, as required by the statute, while keeping the license fees at 50% of the U.S. NRC's fees for an identical license. If the Department does not collect and retain enough fees to adequately fund the program, South Carolina is at risk of losing its Agreement State status with the NRC. If this occurs, licensing fees will automatically be assessed on the NRC's fee schedule, which is 100% more than the proposed fees. Therefore, these fees are needed and reasonable.

Text:

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

Document No. 4133

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Section 13-7-40

61-63. Radioactive Materials (Title A)

Preamble:

The Nuclear Regulatory Commission continually updates regulations, and state regulations are amended regularly to incorporate federal updates. The Department plans to adopt into regulation the Nuclear Regulatory Commission updates as an item of compatibility. Section 274 of the Atomic Energy Act of 1954, as amended, requires that the states adopt federal regulations for compatibility. The Department intends to make changes to R. 61-63 to this extent. The intended action includes minor corrections and clarifications in Parts II and IV, requirements for medical use of radioactive material. It also provides changes to Part II for exemptions from licensing, General Licenses, and licensing and reporting requirements. Medical Use, Part IV, is further revised to provide clarification for Authorized User requirements. Proposed regulations will comply with 10 CFR Parts 30, 31, 32, and 35, Final Rules, published in the Federal Register on October 29, 2007, December 17, 2007, and September 28, 2009.

Legislative review will not be required.

A Notice of Drafting for this amendment was published in the State Register on March 26, 2010. The revision is being promulgated to comply with federal law; neither a fiscal impact statement nor preliminary assessment report is required. See discussion of proposed revisions below and a statement of need and reasonableness provided herein.

Discussion of Proposed Revisions:

PART II

SECTION AND REVISION

2.4.2.3.7.2

Adds criteria for transfer of a licensed device.

2.7.5.2.5

Revises authorization criteria for an Authorized Nuclear Pharmacist.

40 PROPOSED REGULATIONS

2.7.7.1

Adds additional medical use reference.

2.20.2.1.1

Clarifies possession of exempt concentrations.

2.20.2.1.2

Revised to address the import of radioactive material.

2.20.2.1.3

Adds clarification for exempt transfer criteria.

2.20.2.1.4

Adds clarification for exempt transfer criteria.

2.20.2.2

Clarifies sale or distribution of non-exempt products.

2.20.2.2.1.5

Clarifies description of timepiece.

2.20.2.2.1.8

Clarifies reference date.

2.20.2.2.2

Text is removed and item is reserved.

2.20.2.2.3

Clarifies reference date.

2.20.2.2.4

Text is removed and item is reserved.

2.20.2.2.5

Clarifies reference date.

2.20.2.2.6

Text is removed and item is reserved.

2.20.2.2.8

Clarifies wording.

2.20.2.2.9

Revises device specifics.

2.20.2.5.1

Adds reference item.

2.20.2.5.5

Revises criteria for combination of exempt quantities.

2.20.2.6

Text is removed and item is reserved.

2.21.1.5

Clarifies transfer or disposal of generally licensed material.

4.20.1.2.2.2

Adds requirement for authorized users' reference.

4.21.3

Clarifies and adds requirements for authorized users.

4.23.3

Adds section for exception to training requirements.

4.32.1

Updates regulatory guidance document.

4.34.1

Clarifies decay-in-storage requirement.

4.36.1.1

Revises reference.

4.36.2

Adds authorized user reference.

4.36.3

Adds training criteria.

4.36.3.2

Adds requirement for authorized users.

4.36.4

Clarifies and adds requirements for authorized users; renumbers section to 4.36.3.3.

4.39.1.1

Changes reference.

4.39.3.2

Clarifies and adds requirements for authorized users.

4.39.4

Clarifies and adds requirements for authorized users; renumbers item to 4.39.3.3.

4.43.2.2

Clarifies and adds requirements for authorized users.

4.43.3

Clarifies and adds requirements for authorized users.

4.43.4.3

Clarifies and adds requirements for authorized users.

4.43.4.4

Clarifies and adds requirements for authorized users.

42 PROPOSED REGULATIONS

4.44.1.4

Clarifies and adds requirements for authorized users.

4.44.1.5

Clarifies and adds requirements for authorized users.

4.45.1.4

Clarifies and adds requirements for authorized users.

4.45.1.5

Adds requirement for authorized users.

4.54.1.2.2

Adds requirement for authorized users.

4.54.1.3

Adds requirement for authorized users.

4.54.1.4

Adds requirement for authorized users.

4.55.1.4

Adds requirement for authorized users.

4.74.1.2.2

Adds requirement for authorized users.

4.74.1.3

Adds requirement for authorized users.

4.74.1.4

Clarifies and adds requirements for authorized users.

Notice of Staff Informational Forum and Public Comment Period:

Staff of the Department of Health and Environmental Control invites interested members of the public to attend a staff-conducted informational forum to be held on July 26, 2010 at 11:00 a.m. in the McNeely Conference Room, 1st floor, of the Heritage Building at the Department of Health and Environmental Control at 1777 St. Julian Place, Columbia, S.C. 29201.

Interested persons are also provided an opportunity to submit written comments to Aaron Gantt, Chief, Bureau of Radiological Health at South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. Written comments must be received no later than 5:00 p.m. July 26, 2010. Comments received by the deadline date will be considered in formulating the final proposed amendment for public hearing before the Board of Health and Environmental Control as noticed below. Comments received shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Melinda Bradshaw at South Carolina Department of Health and Environmental Control, Bureau of Radiological Health, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 545-4400. Also, electronic copies may be obtained

from the Department's Regulatory information internet website in its DHEC Regulation Development Update at <http://www.scdhec.gov/regulatory.htm> (click on the Update, then the Radiological Health category, and scan down for this proposed amendment).

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 Board of Health and Environmental Control at its regularly-scheduled meeting on September 9, 2010, to be held in Room 3420 (Board Room) of the Commissioner's Suite, third floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Preliminary Fiscal Impact Statement:

A preliminary fiscal impact statement is not required due to this revision being promulgated to comply with federal laws.

Statement of Need and Reasonableness:

The statement of need and reasonableness was determined based on staff analysis pursuant to S.C. Code Section 1-23-115(c)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: R.61-63, Radioactive Materials (Title A).

Purpose: To amend Regulation 61-63 in accordance with changes to Federal Regulation 10 CFR Part 30, 31, 32, and 35.

Legal Authority: This change to state law is authorized by S.C. Code Section 13-7-40 and required by Section 274 of the Atomic Energy Act, 40 U.S.C. Section 2021b.

Plan for Implementation: Upon approval of the proposed regulations by the Board of Health and Environmental Control and publication in the S.C. State Register, existing staff of the Bureau of Radiological Health will implement these changes. The additional requirements are expected to require 30 man-days of effort. Impact on other program areas will be slight.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION AND EXPECTED BENEFIT:

This regulatory amendment is exempt from the requirements of a Preliminary Fiscal Impact Statement or a Preliminary Assessment Report because each change is necessary to maintain compatibility with Federal regulations. In amending the Federal regulations, the U.S. Nuclear Regulatory Commission found the following:

The proposed regulation provides minor corrections and clarifications in Parts II and IV, R.61-63.

DETERMINATION OF COSTS AND BENEFITS:

No additional cost will be incurred by the State or its political subdivisions by the implementation of this amendment. Existing staff and resources will be utilized to implement this amendment to the regulation. It is

44 PROPOSED REGULATIONS

anticipated that the amendment will not create any significant additional cost to the regulated community based on the fact that requirements or changes to the regulation will be substantially consistent with the current guidelines and review guidelines utilized by the Department.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

It is necessary to update existing regulations as changes occur at the federal level in order to maintain compatibility with the federal government and other Agreement States. This will ensure an effective regulatory program for radioactive material users under state jurisdiction, and protection of the public and workers from unnecessary exposure to ionizing radiation.

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

None. Federal requirements will apply to all affected users. The proposed amendments eliminate possible duplicative or redundant requirements.

Text:

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

Document No. 4129

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

61-9. Water Pollution Control Permits

Preamble:

The Department is proposing to amend R.61-9, Water Pollution Control Permits, to adopt Federal Clean Water Act final rules issued by the United States Environmental Protection Agency (EPA). EPA adopted regulations related to 316(b) of the Clean Water Act (40 CFR 125.80-89) on December 18, 2001 amended June 19, 2003. These phase one regulations address cooling water intakes at new facilities (power companies and manufacturing companies) with cooling water intakes greater than 2 MGD. It is necessary for the Department to adopt these rules to maintain delegation of the NPDES program in South Carolina.

Pursuant to S.C. Code Ann. Section 1-23-120(H)(1), these regulations are being promulgated to comply with federal law and are exempt from the requirements of a preliminary fiscal impact statement or a preliminary assessment report and will not require legislative review. See Statement of Need and Reasonableness herein.

A Notice of Drafting for the proposed revisions was published in the State Register on February 26, 2010.

Section-by-Section Discussion

Section 122.1(a)(4)

Adopt by reference 40 CFR 125 (Sections 80-89)

Section 124.10(d)(ix) & (x)

Renumber (ix) to (x) and add new (ix) and (x) to match federal text

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral and/or written comments on the proposed amendments at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on September 9, 2010. The public hearing will be held in the Board Room of the Commissioner's Suite, third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull St., Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The Department will publish the Board's agenda 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

Interested persons are also invited to submit written comments on the proposed regulations during a public comment period by writing to Jeff deBessonnet, DHEC/Bureau of Water, 2600 Bull St., Columbia, S.C. 29201 (or debessjp@dhec.sc.gov). To be considered, written comments submitted must be received no later than 4:00 p.m. July 30, 2010, the close of the public comment period. Comments received by the deadline date above shall be considered by staff in formulating the final proposed regulations for public hearing on September 9, 2010 (details above). Written comments received shall be submitted in a Summary of Public Comments and Department Responses for consideration by the Board of Health and Environmental Control at the public hearing scheduled above.

Copies of the Notice of Proposed Regulation and text of the regulation for public notice and comment may be obtained by contacting Jeff deBessonnet (address noted above), or from the Department's Regulatory Information internet website in its DHEC Regulation Development Update at <http://www.scdhec.gov/administration/regs/> (click on the Update, then the Water category, and scan down for this proposed amendment).

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: R.61-9, Water Pollution Control Permits.

Purpose: The Department is proposing to amend R.61-9 by adopting federal regulations.

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

Plan for Implementation: Upon approval by the Board of Health and Environmental Control and publication as final regulations in the State Register, the Department will implement the regulation changes as with other regulations.

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

The basis for this change to R.61-9 is to provide consistency with the federal program and to maintain delegation of the permitting program pursuant to the federal Clean Water Act (i.e., National Pollutant Discharge Elimination System (NPDES)). The changes proposed will insure consistency in permitting between the state and federal programs related to cooling water intake structures. These rules protect aquatic

46 PROPOSED REGULATIONS

organisms from entrainment (small aquatic organisms flowing through cooling water intakes) and from impingement (aquatic organisms being trapped on intake screen structures).

DETERMINATION OF COSTS AND BENEFITS:

This regulatory amendment is exempt from the requirement for a preliminary fiscal Impact statement or a preliminary assessment report because each change is necessary to maintain compatibility with Federal regulations. These changes will not affect NPDES permit applicants because federal regulations must be applied, and DHEC is not proposing to be more stringent than the federal regulations. These changes are not anticipated to change costs to the Department.

UNCERTAINTIES OF ESTIMATES:

While a specific monetary benefit can not be estimated, consistency with the federal program will provide clarity to permit applicants as to the requirements under state regulatory programs.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Environmental protection of aquatic organisms will be protected by properly designed cooling water intake structures.

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

Without this regulation, state rules will not have specific requirements to minimize entrainment and impingement of aquatic organisms. Also, our delegation of the NPDES program would not be up to date.

Text:

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

Document No. 4100
BOARD OF ACCOUNTANCY
CHAPTER 1

Statutory Authority: 1976 Code Sections 40-1-70 and 40-2-70

- 1-05. Firm registration
- 1-08. Continuing Professional Education
- 1-10. Professional Standards

Synopsis:

These regulations are being promulgated to update and satisfy the requirements of licensure for accountants and to conform to the Board of Accountancy Practice Act.

The Notice of Drafting was published in the *State Register* on September 25, 2009.

Instructions:

Replace Regulation 1-05, Firm Registration, as printed below.
Replace Regulation 1-08, Continuing Professional Education, as printed below.
Replace Regulation 1-10, Professional Standards, as printed below.

Text:

1-05. Firm registration.

(A) A licensee who offers to engage in the practice of accounting on behalf of any person other than an organization in which the licensee is an officer, employee, partner, member or principal must apply for registration as a firm or be employed or associated with a registered firm.

(B) There must be a designated resident manager in charge of each firm office in this State. The designated resident manager must be licensed by this Board and is responsible for office compliance with established professional standards including standards set by federal or state law or regulation.

1-08. Continuing Professional Education.

(A) General Standards for Continuing Professional Education (CPE)

(1) Continuing Professional Education requirements apply to all licensees. Each licensee shall complete CPE, which contributes directly to his or her professional competence.

(2) Each person to whom the CPE requirement applies shall complete forty (40) hours of acceptable CPE each calendar year as a condition of obtaining a renewal license.

(a) Not more than twenty (20%) percent (8 hours) of the required hours may be in personal development subjects. Personal development subjects that exceed twenty (20%) percent of the required hours shall not be available for carry-over credit.

(b) Not more than fifty (50%) percent (20 hours) of the required hours may be in self study programs. Self study credits are not available for carry-over credit.

(c) No more than ten (10) hours of CPE can be earned in a calendar day.

(d) When a meal is scheduled during the educational period, no credit will be allowed unless the schedule provides for fifty (50) minutes of instruction after completion of the meal.

(3) A person who obtains a certificate of registration or license for the first time shall complete at least forty (40) hours of acceptable CPE during the calendar year following the year in which the original certificate or license was obtained. There is no provision for carry-over from a year in which CPE was not required.

(4) The Board may accept a compliance report from another jurisdiction if the requirement is substantially equivalent to SC requirements.

48 FINAL REGULATIONS

(B) Mechanics

(1) Licensees are responsible for compliance with all applicable CPE requirements and should claim CPE hours only for CPE programs when the CPE program sponsors have complied with the requirements set out in these regulations.

(2) Licensees are responsible for accurate reporting of the appropriate number of CPE hours earned and should retain appropriate documentation in their files for five (5) years.

(3) One (1) hour of credit shall be granted for each fifty (50) minutes of actual instructional contact time. One-half CPE credit increments (equal to 25 minutes) are permitted after the first one (1) hour credit has been earned in a given learning activity. Partial hours will be rounded down to the nearest half (1/2) hour. Only class hours, actual hours of attendance and not hours devoted to preparation, shall be counted.

(4) In order for self-study hours to qualify, a licensee must submit a certificate of completion supplied by the program sponsor after completion of an examination. Only self-study courses registered under Quality Assurance Service (QAS) of NASBA will qualify. The certificate of completion must include the following:

- (a) name and address of sponsor;
- (b) participant's name;
- (c) course title;
- (d) course field of study;
- (e) date of completion;
- (f) amount of CPE hours recommended; and
- (g) registration QAS sponsor number.

(5) Teachers of university and college undergraduate and graduate credit courses shall be granted credit at the rate of ten (10) hours for each three (3) semester hour (or prorated equivalent) course taught. Credit shall not be granted for accounting principles, basic financial accounting, basic managerial accounting or any other introductory accounting course, either undergraduate or graduate. Credit shall not be granted for repetitious presentations within a two (2) year period. Credit for teaching university, college, and graduate credit courses shall be limited to twenty-five (25%) percent of the required hours for a reporting period.

(6) For university or college courses that have been successfully completed for credit, a copy of the grade report is to be submitted. Each semester hour credit shall equal fifteen (15) hours. In the case of universities or colleges on the quarter system, each quarter hour credit shall equal ten (10) hours. For non-credit courses, a certificate of attendance issued by the university or college is to be submitted. Each classroom hour attended shall equal one (1) fifty (50) minute CPE hour.

(7) For published articles or books that contribute to the professional competence of the licensee, a copy of the publication that names the writer as author or contributor is to be submitted. For CPE programs developed, an outline of the course is to be submitted. Credit for preparation of such publications may be given on a self-declaration basis up to twenty-five (25%) percent of the renewal period requirement. The Board has the final determination of the amount of credit so awarded. Hours in excess of the limitation contained in this subparagraph shall not be available for carry-over of credit.

(8) Participation in positive enforcement reviews assigned by the Board and service on a peer review acceptance body qualifying under Regulation 1-09 qualifies for and is limited to sixteen (16) hours credit per year for time actually spent on duties.

(9) Instructors or discussion leaders of qualified CPE programs will be granted credit equal to twice the number of hours participation in the course. For repeat presentations, CPE can be claimed only if it can be demonstrated that the learning activity content was substantially changed and such change required additional study or research.

(10) Only the portions of committee or staff meetings that are designed as programs of learning and comply with these regulations qualify for CPE.

(11) Evidence to support fulfillment of the requirements must be retained by the licensee for at least five (5) years from the due date of the CPE report or the date filed, whichever is later. The Board, in its discretion, may verify the information submitted by licensees.

(12) When a licensee completes more than the required number of hours of CPE in any calendar year, the extra hours, not in excess of twenty (20) hours, may be carried forward and treated as hours earned in the following year. No carry over credit is allowed for Personal Development.

(13) While CPE sponsors determine the number of hours, licensees who participate in only part of a program should claim CPE credit only for the portion they attended or completed.

(C) Sponsors

(1) CPE sponsors are expected to present learning activities that comply with course descriptions and objectives.

(2) CPE sponsors must employ an effective means for evaluating learning activity quality with respect to content and presentation, as well as provide a mechanism for participants to assess whether learning objectives were met.

(3) At the beginning of the CPE course, the sponsor should read the following statement or a statement very similar, "It is the responsibility of the licensee to be accountable for the hours earned during the CPE course. The licensee should not engage in any other activities that would denigrate the learning objective of the course to the licensee or others. If the other activity is unavoidable, then that time should be subtracted from the overall CPE credit."

(D) Sponsors of Self-study Courses

(1) CPE self-study programs shall qualify, provided the course has been approved by QAS.

(2) The sponsor of self-study courses must provide the licensee with a certificate of completion containing the information as stated in Regulation 1-08 (B)(4).

(E) Courses Attended

(1) CPE course must contribute directly to the professional competence of a licensee, and the sponsor must provide the participant with a certificate of attendance at the end of the session with the information as stated in Regulation 1-08 (B)(2).

(2) The program will qualify if:

(a) the program is conducted by persons whose background training, education and experience qualify them as appropriate instructors, discussion leaders or lecturers in the subject matter of the particular program;

(b) an outline of the program presented is prepared in advance and shall be maintained by the sponsor;

(c) the program is at least one (1) hour (fifty-minutes) in length. One-half CPE increments (equal to 25 minutes) are permitted after the first credit has been earned in a given program. Sponsors are to calculate credit hours;

(d) a certificate of attendance described in the previous paragraph is given to each participant at the end of the session;

(e) records showing compliance with this section are preserved and maintained by the sponsor for a period of at least five (5) years from the date of presentation of the program.

(F) Other qualifying programs

(1) The following programs may qualify, provided all other requirements of this regulation are met:

(a) professional development programs of recognized national and state accounting organizations;

(b) technical sessions at meetings of recognized national and state accounting organizations and their chapters;

(c) accredited university or college credit courses;

(d) accredited university or college non-credit courses;

(e) formal organized in-firm and inter-firm education programs, although portions of the programs devoted to administrative matters shall not be included; and

(f) programs offered by other recognized professional organizations, industrial or commercial firms, proprietary schools, or governmental entities.

(2) The Board shall not accept any program of learning that does not offer written documentation showing that the work has actually been accomplished.

1-10. Professional Standards.

In addition to the requirements and prohibitions found in S.C. Code 40-2-5 et seq.,:

(A) Licensees shall comply with all federal or state laws governing their business and personal affairs and shall not engage in any acts discreditable to the profession as defined by the Ethical Standards of the American Institute of Certified Public Accountants. A licensee may rely upon the interpretations of those standards published by the Professional Ethics Executive Committee of the AICPA.

50 FINAL REGULATIONS

(B) Complying with professional standards includes timely filing all applicable tax/information and all other regulatory returns for himself/herself or any entity for which the licensee is responsible.

(C) Client records include all information provided by the client and all documents provided to the client (or on behalf of the client) including the materials necessary (including electronic files) to support the final work performed (financial statements, tax returns, etc.). Client records do not constitute other work files or documents, which the licensee may use to audit, test or verify the accuracy of a client's account balances and/or transaction classes (revenues, expenses).

(D) A licensee or permit holder shall not employ or associate with, directly or indirectly, a person whose license is revoked or suspended by this Board or by the Board of Accountancy in any other jurisdiction. Employing or associating such a person as an accountant, investigator, tax preparer or in any other capacity connected with the practice of accounting subjects the license or permit holder to discipline by the Board.

Fiscal Impact Statement:

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

Statement of Rationale:

These regulations are updated in conformance with the current Board of Accountancy Practice Act.

Document No. 4101

BOARD OF ARCHITECTURAL EXAMINERS

CHAPTER 11

Statutory Authority: 1976 Code Sections 40-1-70 and 40-3-60

- 11-3. Meetings
- 11-6. Registration by Examination
- 11-7. Registration by Reciprocity
- 11-8. Renewals
- 11-**8.1**. Continuing Education
- 11-10. Practice of Firms
- 11-11. Seals
- 11-12. Code of Professional Ethics
- 11-13. Manner of Discipline
- 11-14. Reinstatement Procedures

Synopsis:

To satisfy the requirements of licensure for architects, Regulations 11-3, 11-6, 11-7, 11-8, 11-8.1, 11-10, 11-11, 11-12, 11-13, and 11-14 must be revised and updated in conformance with the Board of Architectural Examiners Practice Act.

Instructions:

- Replace Regulation 11-3. (Meetings) as printed below.
- Replace Regulation 11-6. (Registration by Examination) as printed below.
- Replace Regulation 11-7. (Registration by Reciprocity) as printed below.
- Replace Regulation 11-8. (Renewals) as printed below.
- Replace Regulation 11-**8.1**. (Continuing Education) as printed below.
- Replace Regulation 11-10. (Practice of Firms) as printed below.
- Replace Regulation 11-11. (Seals) as printed below.
- Replace Regulation 11-12. (Code of Professional Ethics) as printed below.

Replace Regulation 11-13. (Manner of Discipline) as printed below.
 Replace Regulation 11-14. (Reinstatement Procedures) as printed below.

Text:

11-3. Meetings.

Notice of all meetings shall be distributed to each member at least five (5) days in advance of such meeting, giving time, place, and general purpose of the meeting. The Annual meeting shall be held within ninety (90) days of the end of the fiscal year. Public notice of the meetings shall be made in accordance with the Freedom of Information Act.

11-6. Registration by Examination.

A. Applicants must have completed a professional degree in architecture from a school or college program accredited by the National Architectural Accrediting Board (NAAB) or the Canadian Architectural Certification Board (CACB) as set forth in Section 40-3-230 and must have completed all requirements of the Intern Development Program (IDP) prior to licensure. Applicants may begin taking the Architect Registration Examination prior to completion of IDP but may not be licensed until evidence of completion of all training requirements is submitted to the Board.

(1) Education. An official school transcript shall serve as evidence of attainment of a professional degree in architecture from a program accredited by the National Architectural Accrediting Board (NAAB) or the Canadian Architectural Certification Board (CACB).

(2) Experience. Only a verified Council Record issued by the National Council of Architectural Registration Boards (NCARB) will be accepted as evidence of completion of all training requirements established for the Intern Development Program (IDP).

(3) Examination. The National Council of Architectural Registration Boards (NCARB) Architect Registration Examination (A.R.E.) will be administered to all qualified candidates for initial architectural registration in a manner and place prescribed by NCARB or the Board. Candidates must comply with all NCARB requirements. Examinees must pay all applicable examination fees. Examinees will not have access to the NCARB examinations, answers, or other related documents for reviewing, copying, or other purpose.

B. Applicants for registration by examination who pass the A.R.E. will be notified accordingly. Once a candidate satisfies all licensure requirements as set forth in Section 40-3-230, he or she will be issued a license to practice architecture in South Carolina during the current licensure period.

11-7. Registration by Reciprocity.

A. Any individual holding a current, active, and unrestricted license for the practice of architecture from another state or territory and holding a certificate of qualification issued by the National Council of Architectural Registration Boards (NCARB) may, upon application and within the discretion of the Board, be licensed without written examination.

B. Applicants who receive favorable action will be notified accordingly, and upon payment of the fee as determined by the Board, will be issued a license to practice architecture in South Carolina during the current licensure period.

11-8. Renewals.

A. Certificates of Registration issued to individuals expire biennially. They must be renewed for the following licensure period by payment of the renewal fee and by reporting completion of the required continuing education hours. Certificates shall become invalid unless renewed.

B. Certificates of Authorization issued to firms expire biennially. They must be renewed for the following licensure period by payment of the renewal fee and shall become invalid unless renewed.

C. Lapsed Certificates may be reinstated by the Board at any time during the remainder of the licensure period on demonstration of qualification and payment of the renewal fee plus late penalties. In case of failure to reinstate by the end of the licensure period, the Certificate cannot be reissued except by a new application accompanied by the application fee and approval by the Board.

52 FINAL REGULATIONS

11-8.1. Continuing Education.

A. These requirements shall apply to every South Carolina registered architect as a condition for renewal of registration.

B. Exemptions: A registrant may be exempt from the continuing education requirements for one of the following reasons:

(1) A first-time new registrant by examination or reciprocity will be exempt for the first renewal.

(2) A registrant is exempt from completing continuing education requirements for his profession while serving on active military duty.

(3) Hardship cases may be considered on an individual basis.

(4) Emeritus architects will be exempt from the continuing education requirements.

C. Requirements.

(1) Each South Carolina Registered architect shall complete a minimum of twenty-four (24) continuing education hours each biennial licensure period in topics related to safeguarding life, health, property and promoting public welfare.

(2) Each registrant shall submit, on a form provided by the board, a signed affidavit attesting to the fulfillment of continuing education requirements during the preceding period. Carry-over of a maximum of twenty-four (24) continuing education hours per renewal period is permitted.

(3) Each affidavit may be subject to audit for verification of compliance with requirements. Registrants shall retain proof of fulfillment of requirements for a period of two (2) years after submission in the event the affidavit is selected for audit. Registrants must comply with audit deadlines and requirements.

(4) The Board may disallow claimed credit for continuing education hours. The registrant shall have one hundred eighty (180) calendar days after notification of disallowance of credit to substantiate the original claim or earn other continuing education credit which fulfills minimum requirements.

D. Noncompliance and Sanctions. Failure to fulfill the continuing education requirements, to file the required report, properly completed and signed, or to comply with audit and verification requests shall be considered a violation of the Architectural Registration Law.

11-10. Practice of Firms.

A. A firm engaged in the practice of architecture in South Carolina must employ one (1) or more persons registered to practice architecture in South Carolina who are in full authority and responsible charge of the firm's architectural practice. Persons in full authority and responsible charge shall mean regularly employed persons who are in unrestricted, unchecked, and unqualified command of, and legally accountable for, the actions of such architectural practice.

B. An architect registered in South Carolina shall be responsible for complying with these regulations as they may apply to any association or joint venture with another architect or architects.

C. Each office maintained for the preparation of drawings, specifications, reports, and other professional work shall have an architect duly registered with this Board, in full authority and responsible charge, having direct knowledge and supervisory control of such work.

D. Each firm shall provide and maintain the current mailing address and physical address of its main office.

11-11. Seals.

A. The seal and signature of the architect in responsible charge and the architectural firm's seal shall appear on all architectural documents to be filed for public record and shall be construed to obligate the architect and the firm. A firm seal alone is insufficient; documents shall be signed and sealed by the responsible architect. Record documents used for obtaining building permits shall be so signed. The signing and sealing of the index sheet(s) or the title page of specifications shall be considered adequate.

B. An architect shall not affix, or permit to be affixed, the architect's seal or name to any plans, specifications, drawings, or other related documents which were not prepared by the architect or under the architect's direct responsible charge. Architects shall not use their seal or perform any other service as an architect unless holding at the time a current Certificate of Registration.

C. Description of Registrant's Seal. The seal shall be circular in shape and 1 3/4 inches in diameter. Concentric with the outside of the seal there shall be a circle 1 3/16 inches in diameter; in the annular space between the circle and the outside of the seal shall be the words "State of South Carolina" at the top and

"Registered Architect" at the bottom. The name of only one (1) architect, business location, and registration number shall be placed within the inner circle.

D. Description of Firm Seals. The seal shall be circular in shape and 1 3/4 inches in diameter. Concentric with the outside of the seal there shall be a circle 1 3/16 inches in diameter; in the annular space between the circle and the outside of the seal shall be the words "State of South Carolina" at the top and "Registered Architects" at the bottom. The name, business location, and license number of the firm shall be placed within the inner circle.

E. An electronic seal and signature are permitted to be used in lieu of an original seal and signature when the following criteria, and all other requirements of this section, are met:

- (1) It is a unique identification of the professional;
- (2) It is verifiable;
- (3) It is under the professional's direct and sole control;
- (4) It is linked to a document in such a manner that changes are readily determined and visually displayed if any data contained in the document file was changed subsequent to the electronic seal and signature having been affixed to the document, and
- (5) Changes to the document after affixing the electronic seal and signature shall cause the electronic seal and signature to be removed or altered in such a way as to invalidate the electronic seal and signature;
- (6) In addition, once the electronic seal and signature are applied to the document, the document shall be available in a view only format if the document is to be electronically transmitted;
- (7) The graphic image of the electronic seal and signature shall be readily available and produced in a manner acceptable to the board. It shall contain the same words and shall have substantially the same graphic appearance and size as required above when the image of the electronically transmitted document is viewed at the same time as the document in its original form.
- (8) The graphic display of the seal shall be in compliance with state law.

11-12. Code of Professional Ethics.

An architect or firm shall not engage in dishonest practice, unprofessional conduct, or incompetent practice.

A. Conflict of Interest.

(1) When conditions of compensation are submitted in a proposal for a study, pre-design, or preliminary design service, where future opportunity for additional work on the project is also available to the offerer, such conditions must be consistent and representative of the real cost of services to be performed.

(2) An architect or firm shall not accept compensation for services from more than one (1) party on a project unless the circumstances are fully disclosed and agreed to (such disclosure and agreement to be in writing) by all interested parties.

(3) If an architect or firm has any business association or direct or indirect financial interest which is substantial enough to influence judgments in connection with the performance of professional services, the architect or firm shall fully disclose in writing to the client or employer the nature of the business association or financial interest, and if the client or employer objects to such association or financial interest, the architect or firm will either terminate such association or interest, or withdraw from the commission or employment.

(4) An architect or firm shall not solicit or accept compensation from materials or equipment suppliers in return for specifying or endorsing their products.

(5) When acting as the interpreter of building contract documents and the judge of contract performance, the architect or firm shall render decisions impartially, favoring neither party to the contract.

B. Full Disclosure.

(1) An architect or firm making public statements on architectural questions shall disclose when being compensated for making such statements.

(2) An architect or firm shall be accurate in representing to a prospective or existing client or employer the qualifications and the scope of responsibility in connection with work for which credit is claimed.

(3) If in the course of work on a project, the architect or firm becomes aware of a decision taken by the employer or client, against the architect's or firm's advice, which violates applicable state or municipal building laws and regulations and which will materially affect adversely the safety to the public of the finished project, the architect or firm shall:

54 FINAL REGULATIONS

(a) report the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws and regulations; and

(b) refuse to consent to the decision; and

(c) terminate services with reference to the project in circumstances where the architect or firm reasonably believes that other such decisions will be taken notwithstanding the architect's or firm's objections.

(4) On a project where a building permit has been issued and the sealing architect and the firm of record have not been engaged to perform at least minimum construction administration services, as defined in subsection (5) below, the sealing architect and firm must report to the permitting authority and the building owner that he and the firm have not been so engaged.

(5) The minimum construction administration services expected of the sealing architect and firm deemed necessary to protect the health, safety, and welfare of the public shall be periodic site observations of the construction progress and quality, review of contractor submittal data and drawings, and reporting to the building official and owner any violations of codes or substantial deviations from the contract documents which the architect observed.

(6) An architect or firm shall not deliberately make a false statement or fail deliberately to disclose a fact requested by the Board.

(7) An architect or firm shall not assist the application for registration of a person known by the architect or firm to be unqualified in respect to education, training, experience, or character.

(8) An architect or firm possessing knowledge of a violation of these rules by another architect or firm shall report such knowledge to the Board.

(9) An architect or firm shall cooperate fully upon request in matters pertaining to any investigation initiated by the Board.

C. Compliance with Laws.

(1) An architect or firm shall not violate any state or federal criminal or civil law, rule, or regulation.

(2) An architect or firm shall neither offer nor make any payment or gift to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the architect or firm is interested.

(3) An architect or firm shall comply with the registration laws, rules, and regulations governing the practice of architecture in this State and in any other jurisdiction.

(4) An architect or firm shall not assist or aid any unlicensed person or firm in the unauthorized practice of architecture.

(5) No architect or firm shall be entitled to registration within this State who has been convicted of a felony or a crime of moral turpitude unless suitable evidence of reform is presented to the Board.

D. Professional Conduct.

(1) An architect or firm shall not sign or seal drawings, specifications, reports, or other professional work for which the architect or firm does not have direct professional knowledge and direct supervisory control; provided, however, that in the case of portions of such professional work prepared by the architect's, or firm's consultants, registered under this or another professional registration law of this jurisdiction, the architect or firm may sign or seal that portion of the professional work if the architect or firm has reviewed such portion, has coordinated its preparation, and intends to be responsible for its adequacy.

(2) An architect or firm shall neither offer nor make any gifts, other than gifts of nominal value (including, for example, reasonable entertainment and hospitality), with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the architect or firm is interested.

(3) An architect or firm shall not engage in conduct involving fraud or wanton disregard of the rights of others.

(4) An architect or firm shall not act in any manner so as to mislead a client or the general public or so as to misrepresent its competence or qualifications.

E. Competence.

(1) An architect or firm shall act with reasonable care and competence and shall apply the technical knowledge and skill which is ordinarily applied by architects and firms in good standing in South Carolina.

(2) An architect or firm shall take into account all applicable state and municipal building laws and regulations. While an architect or firm may rely on the advice of other professionals (e.g., attorneys, engineers, and other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, an architect or firm shall not design a project in violation of such laws and regulations.

(3) An architect or firm, together with those whom the architect or firm may engage as consultants, shall undertake to perform professional services only when qualified by education, training, and experience in the specific technical areas involved.

11-13. Manner of Discipline.

A. Any architect or firm found guilty of dishonest practice, unprofessional conduct, or incompetent practice shall be disciplined in accordance with Section 40-1-120, Section 40-3-110, Section 40-3-115, and Section 40-3-120.

B. Any architect or firm whose license has been revoked or suspended by the Board shall promptly notify, or cause to be notified, all clients being represented in pending matters of the revocation or suspension and their inability to act as the architect and shall advise said clients to seek the assistance of another architect of the client's own choice. The notice must be sent by registered or certified mail with return receipt requested.

11-14. Reinstatement Procedures.

A. An architect or firm whose authorization to practice architecture has been suspended who wishes to be reinstated may file with the Board a petition setting forth:

(1) the mailing address and physical address where the architect resides at the time of filing the petition, and the mailing address and physical address where the firm proposes to maintain an office if reinstated; and

(2) suitable evidence of reform to establish clear and convincing proof that he or the firm has been rehabilitated; and

(3) suitable evidence that he or the firm has complied fully with all provisions set forth in the original Order.

B. No application for reinstatement for practice shall be considered by the Board until evidence is submitted that all conditions of the Order have been met.

C. In any Order of reinstatement, the Board may direct that the architect or architectural firm limit professional practice to certain areas of the profession; work under the supervision of another architect or firm; require reports at intervals; or any other reasonable requirement which will ensure the protection of the public health, safety, and welfare.

Fiscal Impact Statement:

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

Statement of Rationale:

These regulations are updated in conformance with the current Board of Architectural Examiners Practice Act.

56 FINAL REGULATIONS

Document No. 4114
BUILDING CODES COUNCIL
CHAPTER 8

Statutory Authority: 1976 Code Section 6-8-20

8-100 through 8-185. Registration, Fees and Disciplinary Procedure

Synopsis:

The South Carolina Building Codes Council is amending Regulation 8-100 through 8-185 to reflect amendments to the statutes on regulation of building codes enforcement officers (2009 Act 20) and to update and clarify existing regulatory language. The proposed amendments provide procedures for state registration of private inspectors performing special or contract inspections of components and systems on new construction of large or complex buildings and structures. The amendments also establish the registration categories, conditions and requirements for special inspectors and contract inspectors.

The Notice of Drafting was published in the *State Register* on October 23, 2009.

Instructions:

Replace Article 1, Regulations 8-100 through 8-185 as printed below.

Text:

ARTICLE 1

REGISTRATION, FEES AND DISCIPLINARY PROCEDURE

8-100. Authority.

8-105. Definitions.

When used in these regulations, the following words and terms shall have the meanings so designated.

1. "Act" means Chapter 8 of Title 6 of The Code of Laws of South Carolina, 1976, as amended.
2. "Approved" means approved by the Council.
3. "Building Official" means the officer designated by a local jurisdiction, who is charged with the administration and enforcement of Building Codes and their related programs.
4. "Certificate of Registration" means the document issued by the Council, authorizing the person named thereon, to practice in the stated classification.
5. "Certified" means qualified by examination administered by a recognized organization in one or more building, system or component inspection disciplines.
6. "Code Enforcement" means administering a building inspection department, enforcement or rendering interpretations of building, residential, plumbing, electrical, mechanical, fuel gas and energy conservation codes, performing building plans review, or performing inspections on one or more building systems for new construction or renovation, as or under the supervision of a building official.
7. "Codes" means the editions of the building codes referenced in Section 6-9-50, Code of Laws of South Carolina, 1976, as amended that have been adopted by the Council.
8. "Commercial Inspector" means a person who performs onsite inspections in two or more construction disciplines, as determined by position description for the local jurisdiction for which employed, for all types of construction in all occupancy groups.
9. "Council" means The South Carolina Building Codes Council.
10. "Department" means the Department of Labor, Licensing and Regulation for the State of South Carolina.
11. "Limited Registration" means a renewable registration issued to a non-certified building code enforcement officer, employed by a local jurisdiction on the effective date of the act.

12. "Practice of Code Enforcement" means the process of administering or enforcing codes and all related standards. The term shall also apply to the process of reviewing plans, specifications and other technical data, as well as inspection of buildings and structures.

13. "Provisional Registration" means a nonrenewable registration issued to a building code enforcement officer, who is training for certification required for employment or advancement.

14. "Recognized code organization" means any state or national organization approved by the Council, which administers a testing and certification program specifically for building code enforcement officers or special inspectors.

15. "Registered/Registrant" means approved by Council to practice as a building code enforcement officer, special inspector or contract inspector and listed in a register maintained by the Department. 16.

"Residential Inspector" means a person who performs onsite building, plumbing, electrical and mechanical inspections on one and two family dwellings, multifamily dwellings three stories or less in height and not exceeding sixteen (16) dwelling units per building or other buildings or structures of light frame construction and not exceeding five thousand (5,000) square feet in total area.

17. "Single Discipline Inspector" means a person who performs onsite inspections in one construction discipline, as determined by position description for the local jurisdiction for which employed, for all types of construction in all occupancy groups.

8-110. Registration Required.

It is unlawful for any person to practice as a building code enforcement officer, special inspector or contract inspector as defined in these regulations, without first being registered as provided herein.

As evidence of registration, a certificate of registration must be issued by the Council, to each qualifying individual. The certificate of registration must set forth the classification for which the individual is qualified to practice.

8-115. Classifications and Qualifications for Registration.

A person applying for registration as a building code enforcement officer, special inspector or contract inspector must be certified in accordance with these regulations. An applicant is deemed to be qualified for registration upon submittal of the following documentation.

A. Building Official—A certificate or examination record from a recognized code organization, indicating that the applicant has been certified as a building official.

B. Commercial Inspector—Certificates or examination records from a recognized code organization, indicating that the applicant has been certified in two or more commercial inspector disciplines.

C. Residential Inspector—Certificates or examination records from a recognized code organization, indicating that the applicant has been certified in the residential building, electrical, plumbing and mechanical inspector disciplines.

D. Plans Examiner—Certificates or examination records from a recognized code organization, indicating that the applicant has been certified in the commercial building, electrical, plumbing and mechanical plans examiner disciplines.

E. Single Discipline Inspector—A certificate or examination record from a recognized code organization, indicating that the applicant has been certified in the discipline for which employed.

F. Provisional—Proof that the building code enforcement officer is presently employed by a municipality or county in South Carolina and is actively in training for a specific certification as a new employee or for advancement to a higher classification.

G. Limited

H. Special Inspector—A certificate or examination record from an approved organization, indicating that the applicant has been certified for the specific type of construction or operation requiring special inspection, for which application is being made, including one or more of the following.

1. Reinforced Concrete
2. Welding
3. High Strength Bolting
4. Steel Frame

58 FINAL REGULATIONS

5. Non-destructive Testing
6. Structural Masonry
7. Earthwork—including Excavation and Filling and Verification of Soils
8. Modular Retaining Walls
9. Deep Foundations
10. Post Tension Cables
11. Sprayed Fire Resistive Material
12. Exterior Insulation and Finish System
13. Smoke Control
14. Pre-cast Fabrication
15. Seismic Resistance
16. Retention Basins

I. Contract Inspector—One or more certificates or examination records from an approved organization, indicating that the applicant has been certified as a building official, commercial inspector, residential inspector, plans examiner or single discipline inspector.

8-120. Maximum Time for Certification.

A person registered in the provisional classification must obtain certification within the time stated below.

A. Building Official—twenty-four (24) months.

B. Commercial Inspector—one (1) certification within the first year, then a maximum of one (1) year for each additional certification for all disciplines for which employed, based on the position description for the local jurisdiction.

C. Residential Inspector—one (1) certification within the first year, then a maximum of one (1) year for each additional certification.

D. Plans Examiner—one (1) certification within the first year, then a maximum of one (1) year for each additional certification.

E. Single Discipline Inspector—twelve (12) months for the discipline for which employed, based on the position description for the local jurisdiction.

8-125. Application Required.

Application for all classifications of registration must be made upon a form furnished by the Council.

Application for registration for a building code enforcement officer must contain a statement of employment and must be verified by the Building Official or administrative head of the local jurisdiction for which the applicant is employed.

All applications for registration must be accompanied by the prescribed fee and copies of certificates and/or examination records from a recognized code organization.

The application and supporting documentation must be evaluated by the Department within thirty (30) working days after receipt.

The applicant will be notified of the approval or disapproval of the application within ten (10) working days after the decision. In the event of disapproval, the applicant may request a hearing before the Council to present additional information or demonstrate evidence of qualification.

8-135. Exemptions.

An existing, non-certified building code enforcement officer employed by a municipality or county on the effective date of the act, is not required to possess prior certification in any discipline. Such building code enforcement officer, upon meeting all other requirements for registration, may be registered in the limited classification. A limited registration must not jeopardize either the existing position or employment of the building code enforcement officer.

A limited registration will be valid only as an authorization for the building code enforcement officer to continue in the position held, and for the local jurisdiction by which employed, on the effective date of the act. All requirements for maintenance and renewal of registration will apply to the limited classification.

8-140. Renewal.

A. Registrations must be renewed biennially for the following licensure period and shall become invalid unless renewed; however, registration may be reinstated at any time within thirty (30) days of expiration, without penalty or examination.

B. Registration renewal notices will be sent to all individuals registered during the preceding licensing period at the address provided by the registrant.

C. All applications for registration renewal must be accompanied by the prescribed fee and verification that the applicant has obtained the required continuing education.

D. A registration not renewed in a timely manner, following expiration, will lapse and, at the discretion of Council, the registrant may be subject to examination before registration is reinstated.

8-145. Fees.

The fee for registration is fifty dollars and is not prorated.

8-150. Continuing Education.

To qualify for registration renewal, a registrant must accumulate a minimum of twelve (12) hours per year of continuing education. One (1) hour of continuing education shall be awarded for each hour of active participation in any course, seminar, workshop, session or other training medium approved by Council.

If the first period of registration is less than twenty-four (24) months, continuing education required for the first registration renewal must be based on the following:

- A. For registrations issued one (1) to four (4) months before expiration, no hours.
- B. For registrations issued four (4) to eight (8) months before expiration, four (4) hours.
- C. For registrations issued eight (8) to twelve (12) months before expiration, eight (8) hours.
- D. For registrations issued twelve (12) to sixteen (16) months before expiration, twelve (12) hours.
- E. For registrations issued sixteen (16) to twenty (20) months before expiration, sixteen (16) hours.
- F. For registrations issued twenty (20) to twenty-four (24) months before expiration, twenty (20) hours.
- G. For each subsequent registration, a minimum of twenty-four (24) hours will be required.

Proof of accrued continuing education will be by audit.

8-160. Comity.

The Council may grant registration without examination, in any classification, to an individual, who at the time of application, is registered or licensed by a similar Board or Council of another state, district or territory, where standards are acceptable to the Council and not lower than required by the act and these regulations.

8-165. Conflict of Interest.

No registered building code enforcement officer or contract inspector may provide or offer to provide labor, material, appliances, equipment, plans, specifications, consultation or any services related to the construction, alteration, demolition or maintenance of any building or structure within the local jurisdiction for which employed.

No registered building code enforcement officer or contract inspector may engage in any work that conflicts or is perceived to conflict with prescribed duties or the interest of the local jurisdiction for which employed.

8-170. Denial, Suspension and Revocation.

The Council has the power to deny, suspend or revoke the registration of a registrant when it has been determined by Council that the person has:

- A. been convicted of a felony or a crime of moral turpitude in any court of competent jurisdiction;

60 FINAL REGULATIONS

- B. obtained certification or registration through fraud, deceit or perjury;
- C. defrauded the public or attempted to do so;
- D. displayed incompetence, negligence or misconduct in the practice of code enforcement;
- E. refused, failed or displayed the inability to enforce any building code, local ordinance or state or federal law within his/her responsibility;
- F. violated or aided or abetted any person in violation of any provision of the act or these regulations.

8-175. Preferring of Charges and Hearing.

Any person may prefer charges for one (1) or more reasons listed in Section 8-170, against a registrant. Such charges must be in writing and must be sworn or attested to by the person alleging them. All charges must be filed with the Department.

All charges, unless dismissed by the Council as unfounded or trivial, must be heard by Council as soon as practical after the date received. The time and place for such hearings will be fixed by the Council and a copy of the charges, together with notice of the time and place, must be served in a legally acceptable manner, at least thirty (30) days before the date fixed for the hearing.

The accused registrant may appeal personally or by Counsel, cross-examine witnesses appearing against him/her and produce evidence and witnesses in his/her own defense.

If after hearing all evidence, a majority of the Council members present vote in favor of finding the accused registrant guilty, Council may place the individual on probation, suspend or revoke his/her registration.

8-180. Appeal From Action of Council.

Any person aggrieved by an action of Council in denying, suspending or revoking a registration, may appeal to the Administrative Law Court.

8-185. Registration Reinstatement and Replacement.

For reasons it deems sufficient, Council may reinstate a registration upon a vote in favor of reinstatement by a majority of the members present.

A replacement for a revoked, lost or destroyed registration may be reissued by the Council subject to the Act and these regulations.

Fiscal Impact Statement:

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

Statement of Rationale:

These regulations are updated in conformance with the current Building Codes Council Practice Act and to provide for state registration of private inspectors performing special or contract inspections of components and systems on new construction of large or complex buildings and structures.

Document No. 4075
BOARD OF COSMETOLOGY
 CHAPTER 35

Statutory Authority: 1976 Code Sections 40-1-70 and 40-13-60

Chapter 35. Requirements of Licensure in the Field of Cosmetology

Synopsis:

To satisfy the requirements of licensure in the field of cosmetology, Regulations 35-1 through 35-5, Regulations 35-8 through 35-10, Regulations 35-13, 35-15 through 35-16, 35-20, and Regulations 35-23 through 35-26 must be revised and updated in conformance with the current Board of Cosmetology Practice Act. Regulations 35-7, 35-11, 35-12 and 35-22 will be deleted.

A Notice of Drafting was published in the *State Register* on September 26, 2008.

Instructions:

Delete 35-1 through 35-26. Replace text as printed below.

Text:

35-1. Application for Approval to Operate Schools of Cosmetology, Nail Technology, or Esthetics.

(A) Any person, firm, or corporation desiring to open any public or private cosmetology, nail technology, or esthetics school (hereafter referred to as "school") shall make application to the State Board of Cosmetology at least sixty (60) days prior to the anticipated opening date. Such application shall be made on a form prescribed by the board. Each application shall be accompanied by the required application fee. In addition, said applicant shall make available to the board at the time of filing the following information:

(1) Name of owner if solely owned, names of partners if a partnership, names of corporate officers and their respective office if a corporation; and

(2) The name of the school, its location, and the complete mailing address; and

(3) Floor plan drawn to scale showing placement of all equipment with all areas designated to include a clinic, dispensary, classroom, office, and restrooms/dressing rooms; and

(4) Other information which the board deems important in consideration of application may be required.

(B) Cosmetology schools shall have a minimum of two thousand five hundred (2,500) square feet of floor space to accommodate no more than sixty (60) students at any given time. For more than sixty (60) students, additional space shall be designated proportionately. Minimum square footage for the clinic area of the school must total sixty (60) square feet per workstation.

(1) Each cosmetology school implementing a nail technology course shall designate at least two hundred forty (240) square feet of enclosed floor space for every ten students or fraction thereof. Enclosed space shall mean walls or partitions with a minimum height of six feet. Enclosed space shall be visually separated from adjoining areas.

(2) Each cosmetology school implementing an esthetics course shall designate at least two hundred forty (240) square feet of enclosed floor space for every ten esthetics students or fraction thereof. Enclosed space shall mean walls or partitions with a minimum height of six feet. Enclosed space shall be visually separated from adjoining areas.

(C) Nail technology schools shall have a minimum of one thousand five hundred (1,500) square feet of floor space to accommodate no more than thirty-five (35) students at any given time. For more than thirty-five (35) students, additional space shall be designated proportionately.

(D) Esthetics schools shall have a minimum of one thousand five hundred (1,500) square feet of floor space to accommodate no more than thirty-five (35) students at any given time. For more than thirty-five (35) students, additional space shall be designated proportionately.

62 FINAL REGULATIONS

(E) Combination nail technology/esthetics schools shall have a minimum of two thousand (2,000) square feet of floor space to accommodate no more than forty-five (45) students at any given time. For more than forty-five (45) students, additional space shall be designated proportionately.

(F) Application Approval/Disapproval. Upon receipt of the properly completed application, prescribed fee and a detailed floor plan, the board may require a meeting with the applicant to discuss the proposed school.

(1) The board shall review the application at the next scheduled board meeting following receipt of the completed application and must report the approval or denial of the proposed school.

(2) If the board denies the application, the applicant shall be promptly notified in writing of the specific reasons of denial. Upon approval of the application, the board shall so notify the applicant and schedule a preliminary inspection for the purpose of determining the suitability of the proposed school's space and design. The inspection shall be conducted by the department and reported to the board.

(G) Final Inspection/License Issued.

Prior to the final inspection, every school shall furnish:

(1) A list of board approved equipment and sufficient training supplies, by quantity and type; and

(2) A proposed course of study and schedule, in compliance with the board's mandatory minimum standard curriculum which said school shall teach; and

(3) A list of texts and materials conducive to learning the prescribed curriculum; and

(4) A schedule of the hours and days of the week the school will be in operation; and

(5) The name and address and license number of each registered instructor to be employed. Each school shall employ at least one instructor for each course offered. If the number of students attending in any particular course is greater than twenty (20), then one additional instructor shall be employed for each twenty (20) additional students, or fraction thereof, attending; two instructors if the number of students in attendance in the school shall be more than forty (40), then one instructor for each additional twenty (20) students in attendance shall be employed; and

(6) A surety bond to the board issued by a licensed bonding company doing business in this state except in the case of a public school district. Such bond shall be in the penal sum of fifty-thousand (\$50,000) dollars, per location, and shall be conditioned upon the faithful performance of the terms and conditions of all contracts entered into between the school and persons enrolling therein. Suit on the bond may be brought by any student injured by the breach of any of the conditions of the approved contract between the student and the owner of the school on pre-paid tuition only. The bond shall be to the State of South Carolina in favor of every person who pays or deposits any money with the school as payment for instruction. Every bond shall continue in force and in effect until notice of termination is given by registered mail to the board and every bond shall set forth this fact; and

(7) After the inspection and approval, a license to operate the school shall be issued.

(H) Change of Location/Ownership/School Closing.

If, at any time during the year, the physical plant or operation of a school is moved to a new location or address, or if ownership is transferred, or if the controlling interest of a partnership or corporation is altered in such a way as to affect the ownership, or if the name of the school changes, then the license for such school shall become void and a new application shall be filed.

(1) Upon receipt of application and prescribed fee for change of school owner and/or school name, the application shall be promptly processed and, if approved, a license issued. Proof of bond transferal must be required.

(2) No school shall be reopened at a new location, until a new application is received by the board, accompanied by the prescribed fee. The same application and application procedures as a new school shall apply.

(3) Any school terminating its operation shall inform the board at least thirty (30) working days prior to the anticipated termination date and in addition properly terminate its students. If the school is being transferred to a new owner the school must certify and transfer, to the new owner, any and all student records. If the school is being closed, certified student records must be provided to the board in a format approved by the board on or before the last day of operation. The school must provide to each current student a certified transcript detailing hours obtained, completed, and for which the school has been compensated.

(4) Prior to school closure, a record of all students' transcripts, who are currently enrolled and who have met contractual obligations, must be submitted within ten working days, via certified mail, to the board office.

(5) If a school desires to relocate temporarily, it shall notify the board to receive approval.

35-2. School of Cosmetology Building Requirements.

(A) All School of Cosmetology classroom and clinic instruction must be presented in an environment that meets or exceeds the state building, health and fire codes and must, at all times, be maintained in safe and sanitary conditions. Classrooms and clinics shall be subject to inspection by the department during hours of operation. They shall be of sufficient size to accommodate all students enrolled in courses and shall meet all local, state and federal building code requirements.

(B) A school of Cosmetology must contain the minimum equipment identified below and any additional supplies and/or equipment necessary to support the training of its students:

- (1) 1 teacher's desk and chair
- (2) 20 student work areas
- (3) 1 file for records
- (4) 1 blackboard or dry eraser board (4' x 8')
- (5) 3 shampoo bowls
- (6) 16 student stations
- (7) 16 styling chairs
- (8) 8 hair dryers
- (9) 3 manicure tables
- (10) A time clock or other electronic recording device to record when students clock in and out of school.

(C) Additional equipment for existing Cosmetology schools wishing to teach Nail Technology and/or Esthetics:

- (1) Nail Technology course—for every two (2) students:
 - (a) one manicure table
 - (b) one patron chair
 - (c) one operator chair
- (2) Esthetics course—for every four (4) students:
 - (a) one facial chair or bed
 - (b) one facial steamer
 - (c) one magnifying lamp
 - (d) one Wood's lamp

(D) A school of Nail Technology must contain the minimum equipment identified below and any additional supplies and/or equipment necessary to support the training of its students:

- (1) 1 teacher's desk and chair
- (2) 15 student work areas
- (3) 10 manicure tables
- (4) 10 client stools
- (5) 10 operator stools
- (6) 1 blackboard or dry eraser board (4' x 8')
- (7) A time clock or other electronic recording device to record when students clock in and out of school.

(E) A school of Esthetics must contain the minimum equipment identified below and any additional supplies and/or equipment necessary to support the training of its students:

- (1) 1 teacher's desk and chair
- (2) 15 student work areas
- (3) 3 Wood's lamps
- (4) 3 magnifying lamps
- (5) 10 facial chairs or beds
- (6) 6 facial steamers
- (7) 1 blackboard or dry eraser board (4' x 8')
- (8) A time clock or other electronic recording device to record when students clock in and out of school.

64 FINAL REGULATIONS

(F) Combination school of Nail Technology and Esthetics must contain the minimum equipment identified below and any additional supplies and/or equipment necessary to support the training of its students:

- (1) 1 teacher's desk and chair
- (2) 15 student work areas
- (3) 5 manicure tables
- (4) 5 client stools
- (5) 5 operator stools
- (6) 1 Wood's lamp
- (7) 3 magnifying lamps
- (8) 3 facial chairs or beds
- (9) 3 facial steamers
- (10) 1 blackboard or dry eraser board (4' x 8')
- (11) A time clock or other electronic recording device to record when students clock in and out of school.

35-3. Minimum Curriculum for a School of Cosmetology, Nail Technology, or Esthetics.

(A) Basic course for a School of Cosmetology 1500 Hours Curriculum

Subjects	Hours
(1) Science of Cosmetology:	
(a) Sanitation and Sterilization	45
(b) Personal Hygiene and Grooming	30
(c) Professionalism--Professional Ethics	35
(d) Public Relations, Salesmanship and Psychology	50
(e) Anatomy	45
(f) Dermatology	25
(g) Trichology	25
(h) Nail Structure	15
(i) Chemistry	100
(j) Safety Precautions (Public Safety)	30
(2) Practice of Cosmetology:	
(a) Shampoos and Rinses (Safety)	45
(b) Scalp and Hair Care-Treatments (Safety)	30
(c) Hair Shaping (Safety)	150
(d) Hair Styling (Safety)	325
(i) Thermal Pressing	
(ii) Thermal Curling	
(iii) Wiggery	
(iv) Roller Placement	
(v) Molding	
(vi) Pin Curling	
(e) Nail Technology (Safety)	25
(f) Chemical (Cold) Waving, Chemical Relaxing or Straightening (Safety)	225
(g) Hair Tinting (Coloring) and Lightening (Bleaching) (Safety)	225
(h) Facial--Skin Care and Make-up (Safety)	30
(3) State Law: Rules, Regulations, Code	15
(4) Threading	10
(5) Unassigned: Specific Needs	20
Total	1500

(B) Basic course for a School of Nail Technology 300 Hours Curriculum

Subjects	Hours
(1) Sanitation and Safety Measures	75
(a) Bacteriology	
(i) Classifications	
(b) Sanitation	
(i) Chemical Agents	
(ii) Sanitizing methods and Procedures	
(2) Anatomy and Physiology (Arms, Hands, Feet)	30
(a) Nail Shapes, Structures, Growth	
(i) Nail Irregularities	
(ii) Nail Diseases	
(b) Bones, Muscles, Nerves	
(i) Bones of arm, hand	
(ii) Muscles of arm, hand	
(iii) Nerves of arm, hand	
(c) Skin	
(i) Histology	
(ii) Functions	
(d) Blood Circulation	
(i) Blood Vessels	
(ii) Blood supply of the arm, hand foot	
(3) Nail Technology (hands and feet)	105
(a) Preparation	
(b) Equipment and Implements	
(c) Supplies	
(d) Procedures	
(i) Basic Nail Technology	
(ii) Oil Nail Technology	
(iii) Nail analysis	
(iv) Hand and arm massage	
(e) Pedicure	
(f) Polish--Application	
(g) Specific Needs	
(4) Artificial Nails	50
(a) Sculpturing (liquid and powder brush ons)	
(b) Artificial nail tips	
(c) Nail wraps and repairs	
(d) Maintenance	
(5) Power Equipment	25
(6) State Law	15
Total	300

(C) Basic course for a School of Esthetics 450 Hours Curriculum

Subjects	Hours
(1) Professional Practices	50
(a) Bacteriology and Sanitation	
(i) Personal hygiene	
(ii) Public health	
(iii) Methods	
(iv) Procedures	
(b) Business Practices	
(i) Management practices	

66 FINAL REGULATIONS

- (ii) Salon development
- (iii) Insurance
- (iv) Client records
- (v) Salesmanship
- (2) Sciences 120
 - (a) Histology of Skin
 - (i) Cell
 - (ii) Tissue
 - (b) Dermatology
 - (i) Structure of the skin and glands
 - (ii) Functions of the skin and glands
 - (iii) Conditions and disorders of the skin
 - (iv) Characteristics of the skin
 - (A) Elasticity
 - (B) Color
 - (C) Skin types
 - (v) Nutrition
 - (A) Nourishment of skin
 - (B) Healthful diet
 - (c) Structure and Functions of Human Systems
 - (i) Skeletal
 - (ii) Muscular
 - (iii) Nervous
 - (iv) Circulatory
 - (v) Cosmetic Chemistry
- (3) Facial Treatments 125
 - (a) Facial Massage
 - (i) Benefits
 - (ii) Analysis
 - (iii) Preparation
 - (iv) Types of Massage
 - (v) Manipulations
 - (vi) Safety measures
 - (b) Electrical current--facial treatments
 - (i) Types of current
 - (ii) Purpose and effects
 - (iii) Procedures
 - (iv) Safety measures
 - (v) Equipment
 - (c) Other kinds of Facial treatments
 - (i) Purpose and effects
 - (ii) Types and treatments
 - (iii) Preparation
 - (iv) Procedures
 - (v) Safety measures
- (4) Hair Removal 50
 - (a) Depilatories
 - (b) Tweezing
 - (c) Waxing
 - (d) Threading
 - (e) Unassigned: Specific Needs

(5) Makeup	50
(a) Purpose and effects	
(b) Supplies and implements	
(c) Preparation	
(d) Procedures	
(e) Safety measures	
(6) Body Wraps	40
(a) Purpose and effects	
(b) Types or treatments	
(c) Supplies and instruments	
(d) Preparation	
(e) Procedure	
(f) Safety measures	
(7) State Law, Rules, Regulations and Codes	15
Total	450

35-4. Instructor Qualifications; Applications.

(A) A license to teach cosmetology, nail technology or esthetics may be issued by the board to any person who:

- (1) submits an application for an instructor's license on a form prescribed by the board; and
- (2) holds a high school diploma or a General Education Development (G.E.D.) certificate; and
- (3) is a licensed cosmetologist, nail technician or esthetician and has practiced for at least two years or, after receiving a cosmetologist, nail technician or esthetician license, has completed a seven hundred fifty (750) hour instructor training program meeting the standards of 35-4(B); and
- (4) has received forty-five (45) hours training in a teaching methods course approved by the board; and
- (5) pays the prescribed fee; and
- (6) passes the instructor's examination prescribed by the board; or
- (7) alternately, for specialized theory hours, a person who has a minimum of five years experience or a bachelor's degree in a related profession, occupation or cognitive area, may instruct the required theory classes with prior approval by the board.

(B) To be approved by the board, an instructor for a methods of teaching course must qualify by:

- (1) having a Masters degree in education; or
- (2) having expertise in a board approved related field.

(C) The Student Instructor Training Program shall:

- (1) consist of a minimum of seven hundred fifty (750) hours of instruction designed to teach students the basics of instruction in a cosmetology, nail technology, or esthetics program; and
- (2) be conducted under the direct supervision of a licensed instructor in a school licensed by this board. Instructors may supervise only one student at a time; and
- (3) be required when an applicant does not meet the requirement of two years of experience as a licensed cosmetologist, nail technician, or esthetician; and
- (4) be limited to those persons currently licensed in South Carolina who hold a valid high school diploma or General Education Development certificate (G.E.D.).

(D) The curriculum shall consist of:

- (1) one hundred twenty-five (125) hours of instruction in basic teaching methods and counseling techniques, development of lesson plans, South Carolina cosmetology laws and regulations; and
- (2) two hundred forty (240) hours of instruction in theory, use of audio-visual equipment, evaluation techniques and instruments, classroom observation, practice teaching, and record keeping; and
- (3) two hundred forty (240) hours of instruction in sterilization and sanitation, supervision of clinical activity, effective demonstration procedures, presentation of styling techniques, student/patron relationship; and
- (4) one hundred twenty (120) hours of instruction in state enrollment procedures and requirements, inventory control and purchasing, student scheduling, graduate records, licensure application forms; and

68 FINAL REGULATIONS

(5) twenty-five (25) hours unassigned to be designated as needed on an individual basis.

(E) Schools offering the Student Instructor Training Program shall submit a proposed curriculum to the board for approval. The approved course must be adhered to. Any change in the curriculum shall be submitted to the board for approval prior to implementation. A copy of the approved curriculum must be given to each student.

(1) Before enrolling a student in the Student Instructor Training Program, the school must disclose in writing that the course is not required for licensure as an instructor if the enrollee has a cumulative total of twenty-four (24) months of experience as a licensed cosmetologist, nail technician, or esthetician. The student must sign a statement that he or she has been advised of all state instructor licensure requirements.

(2) A copy of the student instructor's contract must be kept on file at all times and available for inspection by the board or its agents.

(3) The student instructor shall be properly identified at all times.

(4) The school must provide a certified transcript documenting the hours obtained by the student instructor to the board after all contractual and financial obligations have been met.

35-5. Examinations; Reexaminations.

(A) Upon determining that an applicant is eligible for examination, the board shall notify the applicant at least ten days before the examination.

(B) If an applicant fails to appear for a scheduled examination, the examination fee shall be forfeited.

(C) The board may subscribe to the National Interstate Council of State Boards of Cosmetology Testing Service or such other testing service as selected by the board for the theory portion of the examination.

(D) The examination shall be administered in two separate parts.

(1) One part shall be the theory examination with a minimum passing score of 75.

(2) One part shall be the practical examination with a minimum passing score of 75.

(E) An applicant who fails either part of the examination must retake only the part of the examination failed.

(F) An applicant desiring to be reexamined shall apply to the board on a form prescribed by the board and pay the prescribed reexamination fee.

(G) An applicant applying for comity licensure, shall also pass a South Carolina state law exam as designated by the South Carolina Board of Cosmetology.

35-8. Instructor Reciprocity.

Upon application and payment of the required fee, a license to teach cosmetology, esthetics, or nail technology may be issued by the board to any person who:

(1) is currently licensed, and in good standing, as an instructor in a state that has a nationally endorsed examination; or

(2) who is a licensed cosmetologist, esthetician or nail technician who has practiced for at least two years in any other state and submits proof, satisfactory to the board, of having completed instructor training which is substantially equivalent to requirements of this state.

35-9. Instructor Renewal License.

The holders of current instructors' licenses shall not be required to renew their cosmetologist, esthetician or nail technician licenses as long as the instructor's license is renewed biennially and the instructor's continuing education (CE) requirements are met.

(1) If the holder of a current instructor's license chooses to receive a cosmetologist, esthetician or nail technician license in addition to the instructor's license, the eligible license may be issued upon payment to the board of the prescribed renewal fee.

(2) If the holder of a current instructor's license chooses to no longer renew the instructor's license and elects instead to reactivate a cosmetologist, esthetician or nail technician license, such license will be considered as being current with the instructor's license and the eligible license may be issued upon payment to the board of the prescribed renewal fee.

35-10. General Rules for the Operation of Cosmetology Schools.

(A) Contracts.

(1) The contract between a licensed school and a student shall include the total cost of the course and supplies, including the cost of a kit if that cost is not otherwise included in the cost of the course, the type of course to be taken, and the total hours of instruction required for completion and a payment schedule.

(2) The school must provide each student with a copy of the signed contract.

(3) The contract will contain:

(a) a statement clearly indicating to the student that the school will not release, to any licensing board or other schools, any certified hours or transcripts unless financial and contractual obligations for those hours obtained have been met;

(b) a statement regarding any board approved teach-out agreement or the related bond;

(c) a copy of all approved school rules and regulations.

(B) Records.

(1) Performance Records

(a) All schools shall keep a daily record of the daily attendance, hours earned per day, total hours per month, and the total number to date of all students registered in any program.

(b) Schools shall maintain at the school the names of the students enrolled, the total hours previously recorded for each student, the total number of hours completed during the month for each student, and the total cumulative number of hours for each student at the end of the preceding month. This report shall reflect the student's daily attendance and whether the student is attending day or evening class.

(2) Signing of Records

(a) Both the instructor and the student shall verify and sign all hours on monthly performance records. Students shall be provided a certified copy of their monthly performance records.

(3) Maintaining Records

A student shall be given hourly credit on the basis of one hour credit for one hour of actual classroom instruction or one hour of actual clinic work. A record of this shall be maintained by the school for not less than five years.

(4) Withdrawals

(a) The school will provide the student with a certified transcript of earned hours within ten working days of the student's withdrawal or graduation provided all contractual agreements have been met.

(C) Instructing Staff.

(1) Classroom Supervision

(a) An instructor shall be present in the classroom of school during all class and study hours and must supervise all student practice work.

(b) During school or class hours, instructors shall be totally devoted to instructing the students, and shall not apply their time to private or public practice for compensation.

(c) Instructors shall not permit students to instruct or teach other students in the absence of an instructor.

(2) Schools must furnish to the board a list of all regular and emergency instructors and schedules.

(3) Instructors may not teach more than one course at a time; however, supervising in the teacher training program is not considered teaching a course.

(4) Schools shall provide separate instructors for each course offered at the ratio of one instructor for every twenty students in attendance or portion thereof, but not including student instructors.

(5) Absence of Instructor

(a) If an emergency situation arises and a substitute instructor is needed, the school shall obtain a licensed instructor, if possible, to substitute and shall notify the board, within five business days, of the emergency change in instructors.

(b) If a licensed instructor is not available, the board may, upon request of the school, allow a currently licensed cosmetologist to teach temporarily, not to exceed thirty calendar days without board approval.

(c) Schools must report any change in instructors or schedules to the board in writing, including lists of the instructors and scheduled times of instruction and whether the position is temporary, permanent, part time or full time. If the position is temporary, notification must include the time scheduled for the position to be filled permanently.

70 FINAL REGULATIONS

(6) Teaching Aids

(a) Instructors may not use demonstrations of cosmetology devices, techniques or preparations to evade the requirement for maintaining a proper instructor-student ratio, but only to demonstrate unique and different devices, techniques and preparations to students and instructors. A licensed instructor must be present in the classroom during such demonstrations.

(b) The board reserves the right to require the addition of any equipment or supplies it deems necessary for the full and complete instruction of students.

(D) Training Schedules.

(1) Class scheduling

(a) Schools offering day classes must conduct theory classes not less than six hours per week.

(b) Schools offering evening classes must conduct theory classes not less than three hours per week.

(c) A school operating or planning to operate an evening class shall provide the board with a schedule and the name of the instructor.

(d) No student shall be required or permitted to attend more than eight hours of instruction or practice, or any combination thereof, in any one day, except that a student may be permitted to complete a service in process or to make previously missed time not to exceed 100% of the student's contracted schedule.

(2) Advanced Training

Advanced training courses must be operated separately from the basic cosmetology classes and the students must be properly identified.

(E) Credit Hours.

(1) Schools may not give credit for hours or certify hours with the board until the schools are properly licensed.

(2) A student shall be given credit on the basis of one hour clock credit for one hour of actual classroom instruction or one hour of actual clinic work.

(3) Schools may not give credit for hours while in attendance at trade shows, seminars, etc., without full supervision and proper documentation by the instructor. These hours shall be creditable only if they are deemed educational.

(4) Hours recorded shall be verified monthly by both the instructor and the student and both shall sign these records.

(5) Hours from other states

(a) If a student from another state establishes residence in South Carolina, the South Carolina Board will accept all certified hours from another state board but the student must complete any additional hours necessary to equal South Carolina Board requirements.

(b) In the event the state board of another state does not certify hours, the South Carolina Board may accept certification by the school.

(6) The board shall approve any transfer of hours between cosmetology, nail technology, or esthetics courses.

(7) Upon completion of the required number of hours the state board exam must be taken within twenty-four months or the said hours become invalid.

(F) Services for the Public—Restrictions.

(1) Schools may only permit its students to practice upon members of the public willing to submit themselves to such practice after being fully informed that the person performing the services is a student.

(2) Curriculum - Schools must not allow students to practice on the public until they have satisfied the prerequisite required training to provide those services.

(3) Each school shall display in a conspicuous place, visible upon entry to the school, a sign stating that all services in the school are performed by students who are in training and under the direct supervision of a licensed instructor.

(4) Schools may charge for work performed by students to help defray the cost of operations. It must post or provide a price list for services rendered to the public in type which can be easily read from a conspicuous distance.

(5) Instructors shall not call a student from a theory class to work on the public.

(G) School Examinations.

(1) It shall be the duty of the teaching staff to give a final examination to every student who is a candidate for a degree or diploma.

(2) A passing grade determined by the said school is required for graduation.

(H) School Standards.

(1) Board Requirements

(a) All school rules and regulations and any changes thereto must be approved by the board.

(b) Schools shall permit the board, or its agents, to inspect the school and records which pertain to this chapter at any time during regular school hours.

(2) A school may not operate with an enrollment of less than six active students.

(3) Schools may not recruit students from other schools or knowingly make false or misleading statements to students about other schools.

(4) A school may not operate as a beauty salon or spa.

(5) If the school is closed, the board must be notified within ten working days via certified mail.

(I) Student Standards.

(1) Students enrolled in a school shall wear name tags which clearly indicate that they are students.

(2) Students shall wear professional attire while attending school.

(J) Advertising.

While schools may advertise, all school advertisements must clearly identify to the consuming public that it is a school and that all services will be performed by students under the direct supervision of a licensed instructor.

(K) Transcripts.

Upon obtaining hours, for which the school has been compensated for, the school shall provide the student with a certified transcript on a board approved form:

(1) if the school closes; or

(2) the student withdrawals; or

(3) the student transfers; or

(4) any licensing request.

35-13. Out of State Applicants.

A person currently licensed or certified to practice in another state or territorial possession of the United States, or the District of Columbia, whose license is in good standing, maybe issued a license if the person has satisfactorily passed a nationally recognized examination for entry into the profession.

35-15. Licensure of Cosmetology, Nail Technology, and Esthetics Salons.

(A) Application for Licensure.

(1) For the purpose of this regulation, a salon is defined as a location, other than a cosmetology school, at which cosmetology, nail technology or esthetics is practiced.

(2) Any firm, person or corporation desiring to open a salon of cosmetology, nail technology or esthetics shall make application to the State Board of Cosmetology at least ten working days prior to opening date, stating the approximate date the salon will be ready to open. Such application shall be made on a form provided by the board and shall be accompanied by the required application fee.

(3) The applicant shall designate a manager of the salon who will be responsible for compliance with this chapter and responsible for all personnel physically located in the salon.

(4) If an applicant fails to meet all the licensure requirements, the board shall deny the application, in writing, and shall list the specific requirements not met.

(5) An applicant denied salon licensure because of failure to meet the requirements set by the board is not precluded from reapplying for licensure.

72 FINAL REGULATIONS

(B) Temporary Permit.

(1) When an application to operate a salon is approved by the board and an inspection cannot be completed before the projected opening date, the board may issue a temporary permit for not more than ninety (90) days to the owner to operate the salon until an inspection can be made.

(2) If, upon inspection, the salon fails to meet all licensure requirements, the board may, in its discretion, extend the temporary permit for not more than thirty (30) additional days.

(3) Upon completion of a satisfactory salon inspection, any temporary permit previously issued shall be relinquished to the board's representative and a salon license will be issued by the board.

(C) Inspections.

(1) The board or its designee shall conduct an inspection of the salon to ensure that all licensure requirements have been met, within ten working days, prior to issuance of a salon license.

(2) Licensed salons will be inspected periodically by a representative of the board.

(D) Change in Salon Location.

(1) A salon license shall be valid only for the location named and shall not be transferable.

(2) Any request for a change in salon location shall be submitted to the board through a new application, together with the required fee, twenty working days prior to the proposed opening in the new location.

(E) Change in Salon Name and/or Salon Owner.

(1) A salon license shall be valid only for the owner named and the salon named, and shall not be transferable.

(2) Any request for a change in salon name and/or salon owner shall be submitted to the board through a new application, together with the required fee.

(F) Salon Closure.

(1) If a salon is closed permanently, the salon license shall be immediately returned to the board. If a salon is temporarily closed for more than sixty (60) days, the salon owner shall notify the board.

(G) Renewal of Salon License.

(1) A salon license shall be renewed upon application, accompanied by the required renewal fee, to the board before July 1 of the year in which such license expires.

35-16. Salon Equipment Requirements.

(A) Salons offering services in all phases of cosmetology shall maintain the following minimum equipment:

(1) 1 Disinfectant (wet), large enough to totally immerse implements, with an EPA-registered hospital level disinfectant with demonstrated bactericidal, fungicidal, pseudomonacidal and virucidal activity used according to manufacturer's instructions.

(2) Sharps container for the disposal of used and/or contaminated implements. These containers must be disposed of according to local bio-hazard disposal requirements.

(B) All salons shall have direct access to the following:

(1) Hot and Cold Running Water

(2) Rest Room Facilities

(3) Closed Cabinet for Clean Linens Storage

(4) Storage for Soiled Linen

(5) Fire Extinguisher

(6) First Aid Kit

(7) Covered Trash Containers

All salons shall provide other equipment as is necessary to offer those services available in the salon in a safe and sanitary manner.

35-20. Sanitary and Safety Rules for Salons and Schools.

(A) Enforcement.

(1) The holder or holders of a salon license or a school license, and the person in charge of any such salon or school, shall be liable for implementing and maintaining the sanitary rules in such salon or school individually and jointly with all persons in or employed by or working in or on the premises of such salon or school. All

licensed cosmetologists, instructors, nail technicians and estheticians shall be held individually liable for implementation and maintenance of the sanitary rules applicable to them.

(2) To assure compliance with the laws and regulations governing the operations of salons and schools, the authorized representatives shall have access to the premises of any salon or school, at any time that the instruction or practice of cosmetology is being conducted.

(3) Refusal to permit, or interference with, an inspection constitutes a cause for disciplinary action.

(4) A licensee's failure to observe all rules and regulations on sanitation and to maintain adequate precautionary measures for the public's protection and safety is cause for disciplinary action up to revocation of license. Failure to display, in full public view, all licenses applicable to the salon or school and the persons therein engaged in the practice of cosmetology as well as the sanitary rules and regulations and the sanitary rating given to said salon or school, is sufficient cause for revocation of licenses.

(5) A salon's or school's failure to receive a passing inspection is sufficient cause for disciplinary action up to revocation of license, if not corrected by the next inspection. Thirty days thereafter the board may schedule a show cause hearing in accordance with the provisions as established by the statutes regulating cosmetology.

(B) Rules.

(1) Every salon and school must occupy a separate building, or part of a building which is suitable to render adequate sanitary services to the public, wherein cosmetology may be taught or practiced. Salons, schools, and barber shops must be separated from each other by a solid wall from the floor to the ceiling. Salons and schools must also be separated by solid walls and separate entrances.

(2) Salons and schools shall comply with all state and local building, plumbing and electrical codes.

(3) Salons and schools shall comply with all relevant federal/state workplace safety laws.

(4) The use of a salon or school as living, dining or sleeping quarters is prohibited.

(C) Residential Salons.

(1) Residential salons must maintain a separate entrance for clients, which entrance shall not open from the living, dining or sleeping quarters, and all doors previously opening into such quarters must be permanently sealed.

(2) No portion of the salon may be used as a portion of a private residence.

(3) Entrances must permit patrons to enter salon directly without requiring passage through any portion of the residence.

(4) Separate toilet facilities for patrons must be provided apart from the living quarters.

(D) Physical Facilities of Salons and Schools.

(1) Cleanliness and Repair. Each salon and school must keep the floors, walls, woodwork, ceilings, furniture, furnishings, and fixtures clean and in good repair.

(2) Water Supply. Each salon and school must provide a supply of hot and cold running water.

(3) Toilet Facilities. Each salon and school must provide toilet and hand washing facilities consisting of at least one commode and one lavatory in good working order, with hot and cold running water, soap and individual towels. These facilities must be separate and apart from living, dining or sleeping quarters. Restrooms may not be used for storage.

(4) Drinking Water. Each salon and school must supply potable drinking water.

(E) Animals in Salons and Schools.

No person may bring any animal into, permit any animal to be brought into, or permit any animal other than a service animal for the disabled to remain in, a salon or school.

(F) Infectious Disease.

(1) Licensees must not permit any person afflicted with an infestation of parasites or with an infectious or communicable disease which may be transmitted during the performance of the acts of cosmetology or any of its branches, to work or train in a salon or in a school.

(2) No salon or school may knowingly require or permit a student or person licensed by the Board of Cosmetology to work upon a person known to suffer from any infectious or communicable disease which may be transmitted during the performance of the acts of cosmetology or any of its branches.

(3) No salon or school may require or allow a student or licensee of the Board of Cosmetology to perform any service on a patron with a known infestation of parasites.

74 FINAL REGULATIONS

(G) Personal Cleanliness.

(1) Person and Wearing Apparel. The person and the uniform or attire worn by an individual serving a patron must be clean and appropriate at all times.

(2) Washing Hands. Every person performing cosmetological services in a salon or school must thoroughly wash his or her hands with soap and water or any equally effective cleansing solution before serving each patron.

(H) Instruments and Supplies.

(1) Licensees and students must dispose of all supplies or instruments which come in direct contact with a patron and cannot be disinfected (for example, cotton pads, emery boards used on the natural nail, and neck strips) in a waste receptacle immediately after their use.

(I) Disinfecting Nonelectrical Instruments and Equipment.

(1) Before use upon a patron, all non-electrical instruments with a sharp point or edge which may on occasion pierce the skin and draw blood (scissors, razors, tweezers, cuticle nippers, nail technician scissors, etc.) and all non-electrical instruments without sharp points or edges (combs, brushes, rollers) and all instruments and accessories used in all branches of cosmetology, including nail technology, must be disinfected in the following manner:

(a) clean with soap (or detergent) and water, and then

(b) totally immerse implements with an EPA-registered hospital level disinfectant with demonstrated bactericidal, fungicidal, pseudomonacidal and virucidal or tuberculocidal activity used according to manufacturer's instructions.

(2) All disinfected instruments must be stored in a clean, covered place.

(3) The disinfectant solutions specified in subdivision (1) :

(a) shall remain covered at all times;

(b) shall be changed at least once per week or whenever visibly cloudy or dirty; and

(c) shall be of sufficient size to accommodate all instruments.

(4) All nondisinfected instruments (those that have been used on a patron or soiled in any manner) must be placed in a properly labeled receptacle.

(J) Disinfecting Electrical Instruments.

(1) Licensees and students must disinfect clippers, vibrators, and other electrical instruments prior to each use by:

(a) first removing all foreign matter; and

(b) disinfecting with EPA-registered hospital level disinfectant with demonstrated bactericidal, fungicidal, pseudomonacidal and virucidal or tuberculocidal activity used according to manufacturer's instructions.

(2) All disinfected electrical instruments shall be stored in a clean, covered place.

(K) Liquids, Creams, Powders and Other Cosmetic Preparations.

(1) Storage. All liquids, creams and other cosmetic preparations must be kept in properly labeled clean and closed containers. Powders may be kept in a clean shaker.

(2) Removal from Container. When only a portion of a cosmetic preparation is to be used on a patron, licensees and students shall remove it from the container in such a way as not to contaminate the remaining portion.

(L) Headrests, Shampoo Bowls, and Treatment Tables.

(1) Licensees and students must cover the headrest of chairs with a clean towel or paper sheet for each patron.

(2) Shampoo trays and bowls must be cleansed with soap and water or other detergent after each shampoo and kept in good repair and in a sanitary condition at all times.

(3) Licensees and students must cover treatment tables with a clean sheet of examination paper for each patron.

(M) Towels.

(1) Used Towels to Be Discarded. After a towel has been used once, it must be deposited in a closed receptacle, and shall not be used again until properly laundered and sanitized.

(2) Methods of Laundering. Used towels must be laundered either by regular commercial laundering or by a noncommercial laundering process which includes immersion in water at 140 degrees F for not less than fifteen (15) minutes during the washing or rinsing operation.

(3) Storage. All clean towels must be stored in a closed cabinet.

(N) Bottles and Containers.

Licensees and students must distinctly and correctly label all bottles and containers in use in a school or salon to disclose their contents. All bottles containing poisonous substances shall be additionally and distinctly marked as such.

(O) Neck Strips.

Licensees and students must use sanitary neck strips or towels to keep the protective covering from coming in direct contact with a patron's neck.

35-23. Continuing Education Requirements; Expired Licenses.

(A) All persons licensed by the board as cosmetologists, nail technicians and estheticians must show satisfactory evidence of twelve (12) contact hours of instruction during the preceding licensing year. At least three (3) hours of instruction shall be in sanitation or health and safety for clients.

(B) Initial License. Any person shall not be required to complete continuing education during the first licensing period. During the second licensing period and thereafter, the continuing education requirements shall apply.

(C) Expired License. Any license expired for up to four (4) years may be reinstated if the applicant pays the reinstatement fee and submits proof to the board of completion of continuing education requirements for renewal.

(1) After four (4) years, the license is no longer renewable by payment of fees.

(2) After four (4) years expiration of a license, the full examination must be repeated (practical and theory). The license will then be considered on the same basis as a newly licensed individual.

(D) Instructor License—All persons licensed by the Board as instructors must show satisfactory evidence of twelve (12) contact hours of instruction geared toward teaching during the preceding licensing year.

(E) Employment on military installations—All persons employed in salons on military installations outside of South Carolina, who desire an active license shall be exempt from completing any continuing education requirements, so long as he/she is actively employed on said military base and can provide proof of employment.

35-24. Continuing Education Programs.

(A) Continuing education programs shall meet the criteria established by the board in conjunction with the Division of Continuing Education, University of South Carolina.

(1) The continuing education course shall meet the following criteria for approval:

(a) All education must be generic in nature, i.e., not teach a system, a method, or a product.

(b) All education shall be conducted and monitored by a board approved organization including the signing in and out of participants to assure the presence of participants for the required contact hours.

(c) All organizations desiring to sponsor continuing education shall present to the board prior to October 15 of each year a course outline which shall include but may not be limited to the following:

(i) Instructors Name(s) and summary of qualifications

(ii) Course outline including lesson plans

(iii) List of monitors

(B) Verification. Each licensee for renewal shall maintain evidence of having earned the required number of hours of continuing education for a period of four years. These records are subject to audit by the board and the licensee may be disciplined for failure to maintain them. (C) Program Format, Time Frame, Space.

(1) The program shall not include breaks and lunch periods in the calculation of credit for time attended.

(2) The program shall be completely generic. No mention, promotion or selling of products can take place.

(3) If the program for any reason is late starting, the ending time shall be extended accordingly.

(4) There shall be no early dismissals except for emergencies.

76 FINAL REGULATIONS

(5) Adequate space shall be provided so that each attendee shall be able to see and hear all segments of the program.

(6) Chairs shall be provided.

(7) Smoking shall be curtailed while the program is ongoing. Smoking shall take place only during breaks and lunch periods or only in designated areas.

(8) All participants in the CE programs shall provide two forms of identification one of which must be a government issued photographic identification any time they enter the education area.

(D) Instructors and Monitors of Continuing Education.

(1) Instructors shall be licensed Instructors, Hair Fashion Committee Members or Hair Designer Guild Members. Any deviation from this list must receive approval by the board. Licensees of this board who participate in teaching a continuing education program with instructors who do not meet these qualifications may be disciplined by the board for aiding the unlicensed practice of cosmetology.

(a) Instructors shall not receive CE credit for any continuing education program they teach.

(2) A monitor shall be on duty at all times while the program is ongoing.

(3) Monitors shall see that all attendees sign a check in and check out sheet.

(4) It shall be the duty of the monitor to see that order is maintained at all times and that the verification of attendance forms and that the evaluation forms are completed and signed at the end of the program.

(E) Verification Forms; Evaluation Forms. Verification of Attendance Forms and Evaluation Forms shall not be passed out or completed until the program is over. All applicants and providers shall complete a verification form, approved by the board and the Division of Continuing Education, University of South Carolina, verifying their attendance and must be submitted in a format approved by the board.

(1) The monitor shall verify the participants' attendance and signature on the verification form.

(2) Each sponsoring organization shall mail these forms to the University of South Carolina, along with the required registration fee set by the University of South Carolina.

(3) The forms shall be kept on record with the University of South Carolina as verification that the participants have met the continuing education requirements.

(4) All participants shall receive from the University of South Carolina a Continuing Education Unit (CEU) Certificate proving verification.

(5) The verification forms shall be provided to the organizations by the Division of Continuing Education, University of South Carolina.

(F) Certifying Agent. The University of South Carolina, Division of Continuing Education, will serve as the certifying agent for all providers by providing University of South Carolina Continuing Education Unit (CEU) Certificates for participants when the following conditions are met:

(1) The course submitted by any of the course providers must be fully approved by the board. Complete copies of the course and instructor information (same information requested by the board for course approval), as well as a copy of the approval form from the board must be received by the Division of Continuing Education at least three (3) weeks before the beginning date of the course(s). The information should also include date(s), location(s), and times of the course(s).

(2) Providers who have received course approval from the board shall express their desire, in writing to the Division of Continuing Education at the University of South Carolina, to serve as the certifying agent for their course(s) at least two (2) weeks before the beginning date(s) of the course(s).

(3) Once the course has been approved by the board and the provider has officially requested that the Division of Continuing Education serve as the certifying agent, course attendance forms and general program evaluation forms can be obtained from the Division of Continuing Education at least two (2) weeks prior to the start of the course(s). A complete copy of all verification and evaluation forms must be forwarded to the Division of Continuing Education before the certifying process can begin. Certificates will be mailed to participants.

(4) The certifying costs shall include:

(a) a University of South Carolina (CEU) Certificate for participant; and

(b) a complete list of course participants and professional license numbers forwarded to the sponsoring Association and the board; and

(c) Permanent transcripts developed and maintained on each participant. Retrieval of transcripts by participants will be subject to the policies of the University of South Carolina.

- (5) Verification forms shall be necessary for all participants in order to complete the certifying process.
- (G) Board to Observe Program. The board or its designated agents may observe any continuing education program at any time.

35-25. Fees.

Fees will be established and adjusted pursuant to Section 40-1-50, and posted on the board web page.

35-26. Minimum Requirements for Crossover Between Licensed Cosmetologists and Master Hair Care Specialists.

(A) The board will issue Crossover Cosmetologist licenses to those licensed as Master Hair Care Specialists by the South Carolina State Board of Barber Examiners, who will submit a completed application, fee and proof of a current South Carolina Master Hair Care Specialist license. Crossover Cosmetologist applicants must have a passing score on the theory examination for that license and the total number of years experience and training prescribed hereunder, and thereafter perform satisfactorily in all portions of the practical examination prescribed by the board.

(B) Experience and training prerequisites to examinations.

- (1) Five years of work experience as a Master Hair Care Specialist license.
- (2) Four years work experience under such a license and one hundred (100) hours of cosmetology school training approved by the board.
- (3) Three years work experience under such a license and two hundred (200) hours of cosmetology school training approved by the board.
- (4) Any licensed Master Hair Care Specialist with less than three (3) years experience must have three hundred fifty (350) hours of cosmetology school training approved by the board.
- (5) Any applicant must possess equal to or greater than current cosmetology education.

Fiscal Impact Statement:

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

Statement of Rationale:

These regulations are repealed and updated in conformance with the current Board of Cosmetology Practice Act.

78 FINAL REGULATIONS

Document No. 4117
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 and 59-25-110

43-62. Requirements for Additional Areas of Certification

Synopsis:

This regulation needs to be amended to create additional educator certification options for adjunct instructor, Montessori, and online teaching. In addition, minor changes are proposed in the add-on certification requirements for secondary mathematics for clarification purposes and to align course titles with current courses available in teacher education programs. Add-on certification requirements for Reading also have been revised. The notice of drafting was published in the *State Register* on June 26, 2009.

Instructions: The following section of Regulation 43-62 is modified as provided below. All other items and sections remain unchanged.

Text:

I. GENERAL INFORMATION

A. Individuals who desire to add areas of certification to an existing certificate must complete a State Board of Education-approved program and present a passing score on the appropriate content-area examination(s) in the specific subject field, or complete the following add-on certification requirements specified by the Board.

B. In the event that the State Board of Education should eliminate, revise, or adopt new certification areas, currently certified individuals who are affected may retain the areas of certification for which they previously qualified. However, the State Board of Education may require previously certified individuals to upgrade their certification by completing the new requirements within a specified period of time.

C. The following designations apply to the grade spans for teacher certification in South Carolina, effective September 1, 2005.

CERTIFICATION GRADE SPANS

Early childhood = pre-Kindergarten-grade 3

Elementary = grades 2-6

Middle-level = grades 5-8

Secondary = grades 9-12

The areas of art, music, physical education, English for Speakers of Other Languages (ESOL), foreign languages, theater, and exceptional children education (all categories) have a pre-Kindergarten (pre-K-12) grade span.

D. Instructional areas may not be added to certificates in guidance, media specialist, or school psychologist unless the applicant has completed a teacher education program designed and approved for initial certification purposes.

E. Certification is divided into four sections: (1) regular program, (2) exceptional children education, (3) career and technology education, and (4) other types of specialized certification.

II. REGULAR PROGRAM ADD-ON CERTIFICATION REQUIREMENTS

The following areas are included:

A. Art

- B. Driver Education
- C. Early Childhood Education
- D. Elementary Education
- E. English
- F. English for Speakers of Other Languages (ESOL)
- G. Gifted and Talented
- H. Health Education
- I. Literacy
- J. Mathematics
- K. Middle-level Education
- L. Music Education
- M. Physical Education
- N. Science
- O. Social Studies
- P. Theater
- Q. World Languages

A. Art

- 1. Bachelor's degree
- 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
- 3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Art History/Appreciation	6
Work devoted to the basic techniques of design and color	6
Work devoted to drawing and painting (the student should use as many different media as possible)	6
School art program	3
Crafts	3

B. Driver Education

- 1. Bachelor's degree
- 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
- 3. Evidence of at least three years of successful driving experience. Applicant must provide a copy of his or her driver's record from the applicable state transportation department. An applicant whose driver's license has six or more points against it will not be accepted for add-on certification in driver education.
- 4. Valid driver's license issued by South Carolina or another state in which the teacher is a legal resident. (If a teacher holding certification in driver education has his or her driver's license revoked or suspended, the teacher must report this action to the Office of Educator Certification upon which the certification in driver education will automatically be rescinded.)

5. Professional education

The following twelve (12) hours are required to add the area of driver education to an existing certificate.

	Semester Hours
Basic instructor's course in driver education	3
Advanced instructor's course in driver education	3
Electives (from the list below)	6
Range and Simulation of Driver Education	
Emergency Maneuvers	
Multimedia Systems in Traffic Safety Education	
Research Methods in Traffic Safety Education	

80 FINAL REGULATIONS

General Safety
Drugs in Relation to Highway Safety
Motorcycle Safety Education
Administration of Traffic Safety Education

C. Early Childhood Education

1. Bachelor's degree
2. Initial or professional certificate at the elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of

Education

4. Specialized Preparation	Semester Hours
The Behavior and Development of the Young Child*	3
Curriculum for Early Childhood Education	3
Methods and Materials for Early Childhood	3
Practicum in Early Childhood Education**	3
Teaching Reading at the Elementary Level	3
OR	
Emergent Literacy	
Content courses in math, science, and social studies (each must be represented)	9

*Credits earned in the area of child psychology are acceptable.

**The practicum requirement may be waived based on one year's successful experience teaching in pre-K to third grade.

D. ELEMENTARY EDUCATION

1. Bachelor's degree
2. Initial or professional certificate in early childhood, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of

Education

4. Specialized Preparation	Semester Hours
Teaching of Reading in the Elementary School	6
Child Growth and Development	3
Mathematics for the Elementary School Teacher	3
Science for the Elementary Teacher	3
Social Studies for the Elementary Teacher	3
One of the following courses	3
Literature for Children	
Art for the Elementary School Teacher	
Music for the Elementary School Teacher	
Health for the Elementary School Teacher	

E. ENGLISH

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of

level

Education

4. Specialized Preparation	Semester Hours
Language Structure and Skills	
Composition and Rhetoric	6
Advanced Composition and Rhetoric	3
Development of Modern English	3

Modern English Grammar	3
Teaching of Reading (Secondary)	3

Literature	
British Literature	3
American Literature	3
Adolescent Literature	3
Literary Criticism	3
Electives (Literature)	6

5. Endorsement in Advanced Placement English requires certification in English and the successful completion of the requisite Advanced Placement Institute.

F. ENGLISH FOR SPEAKERS OF OTHER LANGUAGES (ESOL)

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the South Carolina content area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Principles and Strategies for Teaching ESOL to Elementary and Secondary Learner	3
Linguistics	3
Teaching Reading and Writing to Limited English Proficient (LEP) Learners	3
Two electives from the following courses	6
Practicum in the Instruction of ESOL to Elementary and Secondary Learners*	
Testing/Assessment for Language Minority Learners	
ESOL Curriculum Design and Materials Development	
Teaching English through the Content Areas	
Bilingual Special Education	
Second Language Acquisition for Teachers of Elementary and Secondary Learners	
English Grammar/Structure	
Cultural Diversity in Education	

*Practicum may be waived based on one year's successful experience teaching ESOL.

5. Second-language learning experiences documented by any one of the following:
 - (a) six semester hours in a single second language;
 - (b) completion of intensive language training by the Peace Corps, the Foreign Service Institute, or the Defense Language Institute;
 - (c) placement in a third-year-level course in the foreign language department at an accredited college or university; or
 - (d) demonstration of second-language proficiency in a language that is unavailable at accredited institutions through verification in writing from an official designated by the South Carolina Department of Education.

G. GIFTED AND TALENTED EDUCATION

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education
4. Specialized Preparation

82 FINAL REGULATIONS

Requirements for elementary level	Semester Hours
Nature and Needs of Gifted and Talented Students	3
Introduction to Curriculum and Instruction for Gifted and Talented Students	3
Advanced Curriculum Practices for Gifted and Talented Students	3
Identification, Current Trends, and Issues in Gifted and Talented Education	3
Special Topics in Gifted and Talented Education	3
Practicum in Gifted and Talented Education	3

Requirements for middle-level	
Nature and Needs of Gifted and Talented Students	3
Introduction to Curriculum and Instruction for Gifted	3
Advanced Curriculum Practices for Gifted and Talented Student	3
Content-area courses at the graduate level*	9

*For middle school teachers, content-area courses at the graduate level must be applicable to curriculum and instruction at the middle school level.

Requirements for secondary level	Semester Hours
Nature and Needs of Gifted and Talented Students	3
Introduction to Curriculum and Instruction for Gifted and Talented Students	3
Advanced Curriculum Practices for Gifted and Talented Students	3
Content-area courses at the graduate level*	9

*For high school teachers, content-area courses at the graduate level must be applicable to curriculum and instruction at the high school level.

Gifted and Talented Endorsement (only)

In order to fulfill Regulation 43-220(II)(C), all teachers of a Gifted and Talented course or class must complete a training program that is approved by the South Carolina Department of Education. Completion of the training specified here fulfills this requirement and provides an endorsement in Gifted and Talented Education:

A professional certificate in the teaching area
AND

Six (6) hours in the following courses	Semester Hours
Nature and Needs of Gifted and Talented Students	3
Introduction to Curriculum and Instruction for Gifted and Talented Students	3

H. HEALTH EDUCATION

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the required content area examination(s) required by the State Board of Education

4. Specialized Preparation Required	Semester Hours
Human Anatomy and Physiology (in addition to the 12 semester hours of basic science requirements)	3-4
School Health Program	2-3
Emergency Preparedness and First Aid	2-3

Additional Courses (selected from a minimum of three additional areas for a total of twenty-four semester hours)

Environmental Health	2-3
Foods and Nutrition Education	2-3
Contemporary Health Problems	2-3
Drug Education and Drug-Taking Behaviors	2-3
Family Living and Sex Education	2-3
Mental Health	2-3
Valuing and Decision Making in Health Education	2-3
Consumer Health Education	2-3
Community and Public Health Practices	2-3
Chronic and Communicable Disease	2-3

I. LITERACY

1. LITERACY TEACHER

- (a) Bachelor's degree
- (b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
- (c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education
- (d) Two years of successful teaching experience
- (e) Specialized preparation (graduate credit)

	Semester Hours
a. Foundations of Reading	3
b. Assessment Strategies for Reading	3
c. Content Area Reading and Writing	3
d. Instructional Strategies for Reading	3
e. Optional Practicum in Literacy*	3

* Practicum experiences should be included in the requirements of the courses as deemed necessary by each institution. These field experiences can be within a teacher's classroom and should support experiences with small and large group instruction. A separate practicum experience may be offered as a stand alone course option.

2. LITERACY COACH

- (a) Bachelor's degree
- (b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
- (c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education
- (d) Five years of successful teaching experience
- (e) Twelve (12) semester hours in courses required for Literacy Teacher
- (f) Specialized preparation (graduate credit)

	Semester Hours
a. Reading Instruction and Assessment for Diverse Learners	3
b. Coaching for Literacy Education	3
c. Action Research in Literacy Coaching	3
d. Practicum Experience*	3

* Based on individual program of study established by institution

3. LITERACY SPECIALIST

- (a) Bachelor's degree
- (b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
- (c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education
- (d) Five years of successful teaching experience

84 FINAL REGULATIONS

(e) Twenty-four (24) semester hours in courses required for Literacy Teacher and Literacy Consultant or Literacy Coach

(f) Specialized preparation (graduate credit)	Semester Hours
a. Administration and Supervision in Literacy	3
b. Curriculum Development	3
c. Literacy Research	3
d. Additional Education Leadership Course *	3

* (Principalship, organizational theory for school administrators, school and community relations, school personnel, basic technology in administration, education evaluation, or public school administration)

J. MATHEMATICS

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Algebra (abstract, matrix, and linear)	6
Modern Geometry or Foundations of Geometry	3
Calculus	8

Three electives from the following subject areas

Probability or Statistics

Applied or Discrete Mathematics

Number Theory

Analysis

Algebra or Geometry (advanced courses)

5. Endorsement in Advanced Placement Mathematics requires the successful completion of the requisite Advanced Placement Institute.

K. MIDDLE-LEVEL EDUCATION

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

Teachers who hold a professional certificate and who have three or more years of experience teaching in middle grades within the past five years on or before July 1, 2009, will be awarded middle-level certification in each subject area in which he or she has three or more years of successful experience according to the guidelines for Middle Grades Teacher Education and Certification, adopted by the State Board of Education.

Prior to October 1, 2007, teachers who meet the experience requirement and are adding middle-level certification will be exempt from the coursework, subject area exams and the pedagogy exam required for add-on certification in specific middle-level areas.

Between October 1, 2007, and July 1, 2009, teachers who meet the experience requirement and are adding middle-level certification must pass the subject area exam, and the pedagogy exam required by the State Board of Education in order to add subject-specific middle-level certification.

Teachers who have a teaching certificate but do not meet the three (3) year teaching requirement by July 1, 2009, must complete all coursework and examinations required for add-on certification in middle-level areas.

All teachers who teach in the middle grades must qualify for middle-level certification according to the phase-in plan approved by the State Board of Education.

4. Early Childhood, Elementary, Middle, or Secondary Teachers Adding Middle-level Education	
(a) Specialized Preparation	Semester Hours
Middle-level Curriculum and Organization	3
Early Adolescent Growth and Development and Learning	

Communities	3
Teaching Reading and Writing in the Content Area	3
(b) Content preparation (for secondary teachers adding the same content field at the middle-level)	

Semester Hours
No Additional Content
Coursework Required

(c) Content preparation (for early childhood, elementary, or middle-level teachers adding a content field at the middle-level)	
--	--

Semester Hours
15*

*All coursework must be in the particular middle-level field to be added (language arts, social studies, mathematics, or science), and, in the fields of social studies and science, at least three subject areas must be represented within the content field.

L. MUSIC EDUCATION

1. CHORAL

- (a) Bachelor's degree
- (b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
- (c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

(d) Specialized Preparation	Semester Hours
Applied Music (divided equally between piano and voice)*	18 (or 3 full years)
Theory (harmony, ear training, sight singing)	12
Conducting	4
History and/or Literature of Music**	6
Instruction in choral methods (or two semesters)	3
Participation in ensembles (large or small)	3 full years

*A minimum of two half-hour lessons or one one-hour lesson per week for the full nine-month school year is accepted as one full year in any one area of Applied Music.

**The History and/or Literature of Music requirement may substitute for the Music Appreciation requirement in the General Education Program.

(e) Endorsement in Advanced Placement Music requires certification in music and the successful completion of the requisite Advanced Placement Institute.

2. INSTRUMENTAL

- (a) Bachelor's degree
- (b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
- (c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

(d) Specialized Preparation (band or orchestra)	Semester Hours
Applied music (divided equally among piano, one additional major instrument, and two additional instrument families)*	18 (or 3 full years)
Theory (harmony, ear training, sight singing)	12
Conducting	4
History and/or Literature of Music**	6
Instruction in wind, string and percussion instruments and in voice (or two semesters)	3
Participation in ensembles (large or small)	3 full years

86 FINAL REGULATIONS

*A minimum of two half-hour lessons or one one-hour lesson per week for the full nine-month school year is accepted as one full year in any one area of Applied Music.

**The History and/or Literature of Music requirement may substitute for the Music Appreciation requirement in the General Education Program.

(e) Endorsement in Advanced Placement Music requires certification in music and the successful completion of the requisite Advanced Placement Institute.

3. PIANO, VOICE, VIOLIN

(a) Bachelor's degree

(b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level

(c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

(d) Specialized Preparation (band or orchestra) Semester Hours

Applied music (piano, voice, violin, organ)* 18

Theory (harmony, ear training, sight singing) 12

Conducting 4

History and/or Literature of Music** 6

Instruction in wind, string and percussion instruments
(or two semesters) 3

Participation in ensembles (large or small) 3 full years

* A minimum of two half-hour lessons or one one-hour lesson per week for the full nine-month school year is accepted as one full year in any one area of applied music.

**The History and/or Literature of Music requirement may substitute for the Music Appreciation requirement in the General Education Program.

M. PHYSICAL EDUCATION

1. Bachelor's degree

2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level

3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation Semester Hours

History, Principles, or Philosophy of Physical Education 3

Organization and Administration, Curriculum, or Evaluation of
Physical Education 3

Human Physiology and Anatomy (in addition to the twelve
semester hours in basic science requirements) 3

Materials and applied techniques 21

(This area involves multiple courses that require an understanding and mastery of the techniques of the various activities and their presentation and adaptation to the various age levels and groups.)

Required courses

Games and Rhythms for the Elementary School-Aged Child

Individual and Dual Sports

Intramurals and Interscholastic Sports

Movement Education

Recreation and Outdoor Education

Team Sports

Elective courses

Adapted Physical Education (exceptional or atypical children)

Aquatics and Water Sports

Stunts, Tumbling, and Gymnastics
 Rhythms
 Safety, First Aid, and Athletic Injuries
 Games and Activities of Low Organization

N. SCIENCE

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation (for teaching all sciences in high school)*

Semester Hours

Biology	6-8
Chemistry	6-8
Physics	6-8
Marine Biology/Science	6-8

Electives in the following subject areas:

6-12

Biology
 Chemistry
 Physics
 Geology
 Geography
 Astronomy

*At least eighteen (18) semester hours of the thirty (30) semester hours must be in courses with a laboratory.

Certification will be granted in any one of the specific sciences when at least eighteen (18) semester hours of credit are presented. Six or more semester hours must be in laboratory courses.

5. Endorsement in the Advanced Placement sciences requires certification in a science area and the successful completion of the requisite Advanced Placement Institute.

O. SOCIAL SCIENCES

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation (for teaching all social studies in high school)

Semester Hours

Social studies	6
U.S. History	6
European History	6
Electives from economics, government, geography, and sociology (not more than 6 hours in any one field)	12
Electives from economics, geography, government, history, psychology, sociology, and the history of religion	6
History	
U.S. History	6
European History	6
Electives from history and/or government	6

88 FINAL REGULATIONS

One social studies field

18

(Certification will be granted in any one of the specific subjects--economics, geography, government, psychology, and sociology--for which eighteen (18) semester hours are presented.)

5. Endorsement in the Advanced Placement social sciences requires certification in a social studies area and the successful completion of the requisite Advanced Placement Institute.

P. THEATER

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Acting	3
Technical Theater (including stagecraft, lighting, Costuming, makeup)	6
Directing	3
Dramatic Literature	6
History of the Theater	3
Creative Drama	3
Theater arts elective	3

*In meeting the above requirements, the applicant with training or experience in the professional theater may offer the following substitutions for the courses listed:

(a) At least three (3) months full-time or twelve (12) months part-time acting training in a non-degree granting professional acting school (provided that the school employs at least three different teachers) may be substituted for the acting course.

(b) At least six (6) months of full-time employment in technical theater may be substituted for technical theater courses.

(c) Experience as director of at least five (5) full-length plays produced for a paying audience may be substituted for the directing course.

Q. WORLD LANGUAGES (including American Sign Language)

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation (one world-language field)*	Semester Hours
French	18
German	18
Latin	18
Spanish	18
Russian	18
Japanese	18
American Sign Language	21
ASL coursework (12)	
ASL electives (9)**	

(ASL linguistics must be included among electives)

*The semester hours required must be above the six-hour introductory course.

**ASL electives may include Deaf Literature and Folklore, Discourse in American Sign Language, Deaf Studies in these United States, Discourse Analysis of ASL, Deaf History, Deaf Culture, Careers in American Sign Language, or other related coursework.

5. Endorsement in an Advanced Placement world language requires certification in the particular world language and the successful completion of the requisite Advanced Placement Institute.

III. EXCEPTIONAL CHILDREN ADD-ON CERTIFICATION

The following areas are included:

- A. Education of Deaf and Hard of Hearing
- B. Emotional Disabilities
- C. Learning Disabilities
- D. Mental Disabilities
- E. Multi-categorical Special Education
- F. Severe Disabilities
- G. Speech Language Therapist
- H. Visual Impairment

A. EDUCATION OF DEAF AND HARD OF HEARING

- 1. Bachelor's degree
- 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
- 3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Introduction to Exceptional Learners/Special Education	3
Teaching of Reading	3
Methods/Procedures for Teaching Speech Reading	3
Psychology of Hearing Impaired	3
Teaching of Language to Students with Hearing Impairment	3
Two electives from the following courses	6
Educational Assessment	
Anatomy of the Auditory and Speech Mechanism	
History of Education and Guidance for the Hearing Impaired	
Audiology, Hearing Aids, and Auditory Training	
Methods of Teaching Elementary School Subjects	
Principles of Speech Correction	
Physical Education and Recreation for the Exceptional Child	
Nature of Emotional Disabilities	
Nature of Learning Disabilities	
Remedial Reading	
Practicum in Instruction of the Exceptional Child	
Introduction to Rehabilitation and Community Services	
Educational Psychology	

B. EMOTIONAL DISABILITIES

- 1. Bachelor's degree
- 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
- 3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Introduction to Exceptional Learners/Special Education	3
Characteristics of Emotional Disabilities	3
Methods/Procedures for Emotional Disabilities	3
Behavior Management	3
Teaching Reading in General and Special Education	3

90 FINAL REGULATIONS

Assessment of Exceptional Learners 3

Practicum in Instruction for Students with Emotional Disabilities* 3

*Practicum may be waived based on two years' successful experience teaching emotional disabilities

C. LEARNING DISABILITIES

1. Bachelor's degree

2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level

3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation

Semester Hours

Introduction to Exceptional Learners/Special Education 3

Characteristics of Learning Disabilities 3

Methods/Procedures for Learning Disabilities 3

Behavior Management 3

Teaching Reading in General and Special Education 3

Assessment of Exceptional Learners 3

Practicum in Instruction for Students with Learning Disabilities* 3

*Practicum may be waived based on two years' successful experience teaching learning disabilities.

D. MENTAL DISABILITIES

1. Bachelor's degree

2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level

3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation

Semester Hours

Characteristics of Mental Disabilities 3

Methods/Procedures for Mental Disabilities 3

Behavior Management 3

Teaching Reading in General and Special Education 3

Assessment of Exceptional Learners

Practicum in Instruction for Students with Mental Disabilities* 3

*Practicum may be waived based on two years' successful experience teaching mental disabilities.

E. MULTI-CATEGORICAL SPECIAL EDUCATION

This area allows teachers to serve learners with mild to moderate disabilities, which include autism, emotional disabilities, learning disabilities, mental disabilities, and traumatic brain injury.

1. Bachelor's degree

2. Initial or professional certificate in either mental disabilities, emotional disabilities, or learning disabilities

3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation

Semester Hours

Introduction to Exceptional Learners/Special Education 3

Characteristics of Learning Disabilities 3

Characteristics of Mental Disabilities 3

Characteristics of Emotional Disabilities 3

Methods/Procedures for Learning Disabilities 3

Methods/Procedures for Mental Disabilities 3

Methods/Procedures for Emotional Disabilities 3

Behavior Management 3

Assessment of Exceptional Learners 3

Practicum in Instruction for Students with Emotional Disabilities, and/or, Learning Disabilities, and/or, Mental Disabilities 6
OR

5. If certified in one area (mental disabilities, emotional disabilities, or learning disabilities) coursework is required in each of the two areas other than the teacher's certification area.

Characteristics 3
Methods in Procedures 3
Practicum* 3
OR

6. If certified in two areas (mental disabilities, emotional disabilities, or learning disabilities) coursework is required in the one remaining certification area.

Characteristics 3
Methods in Procedures 3
Practicum* 3

*Practicum (three semester hours) may be waived based on two years' successful experience teaching mental, emotional, or learning disabilities, as appropriate.

F. SEVERE DISABILITIES

This area allows teachers to serve learners with moderate to severe cognitive disabilities, which include mental disabilities, multiple disabilities, orthopedic impairment, autism, traumatic brain injury, and other health impairments.

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Introduction to Exceptional Learners/Special Education	3
Characteristics of Severe Disabilities	3
Methods/Procedures for Teaching Individuals with Moderate to Severe Disabilities	3
Behavior Management	3
Language/Communication Skills for Exceptional Children	3
Assessment of Exceptional Learners	3
Practicum in Instruction for Students with Severe Disabilities*	3

*Practicum may be waived based on two years' successful experience teaching severe disabilities.

G. SPEECH LANGUAGE THERAPIST

(Included in Regulation 43-64 under Requirements for Certification at the Advanced Level)

H. VISUAL IMPAIRMENT

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Human Growth and Development or the equivalent	3
Teaching of Reading	3
Nature of Visually Impaired	3
Educational Procedures for Visually Impaired	3
Introduction to Exceptional Children	3
Braille—Reading and Writing	3

92 FINAL REGULATIONS

Orientation and Mobility for the Classroom Teacher	3
Practicum in Instruction of the Visually Impaired Child*	3
Anatomy, Physiology, and Function of the Eye	3

*Practicum may be waived based on two years' successful experience teaching visually impaired.

IV. CAREER AND TECHNOLOGY ADD-ON CERTIFICATION

The following areas are included:

- A. Agriculture
- B. Business and Marketing Technology
- C. Computer Programming
- D. Family and Consumer Science
- E. Industrial Technology

A. AGRICULTURE

- 1. Bachelor's degree
- 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
- 3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
(a) Agriculture	
Plant sciences (including agronomy, horticulture, and/or forest)	15
Animal sciences (including dairy or poultry)	6
Agricultural engineering (mechanization)	6
Agricultural economics	6
Agricultural sciences electives	18
(b) One specific Agricultural Education field	
Agricultural mechanics	18
Animal science	18
Environmental science and natural resources	18
Forestry	18
Horticulture	18
Agriculture sciences electives (required for each of the five required Agricultural Education fields)	6

B. BUSINESS AND MARKETING TECHNOLOGY

- 1. Bachelor's degree
- 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
- 3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Accounting	6
Business Communications	3
Business Law	
Computer applications and technology (to include, but not be limited to: word processing, spreadsheets, database management, and Web publishing//multimedia)	9
Economics	3
Entrepreneurship	3

Hospitality, Tourism or Hotel/Motel Management	3
International Business	3
Management	3
Marketing	3
Instructional Methods for Teaching Business, Marketing, Computer Technology	3

C. COMPUTER PROGRAMMING (for Career and Technology Education programming courses)

1. Bachelor's degree
2. Initial or professional certificate at the secondary level in any subject area.
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education
4. Specialized Preparation Semester Hours

Computer programming (any combination of currently relevant language(s) being used in business)	9
---	---

Note: Programming courses completed at the post secondary level within the past five years may be counted toward this endorsement.

D. FAMILY AND CONSUMER SCIENCE

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Child Development or Human Growth And Development	3
Computer Technology or Introduction to Computer	3
Consumer Economics and Resource Management	3
Curriculum and Evaluation in Family and Consumer Sciences (FCS) or Instructional Strategies	3
Food Science or Food Composition	3
General Chemistry and Lab or Chemical Sciences and Law	4
Housing: Design and Environment or Residential Technology	3
Human Sexuality	3
Introduction to the Exceptional Child or Introduction to Special Education	3
Marriage and Family Relations or Education for Parenthood	3
Professional Foundations of Family and Consumer Sciences	3

OR

The Professional and the Family Advanced Child Care and Family Relations

One of the following courses	3
Human Nutrition	
Meal Management	
Nutrition and Food	
Quality Food Production	

One of the following courses	3
Clothing Design and Construction	
Contemporary Aspects of Clothing	
Creative Apparel Design	

94 FINAL REGULATIONS

Essentials of Textiles

E. INDUSTRIAL TECHNOLOGY

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education
4. Specialized Preparation

	Semester Hours
Transportation	6
Communication	6
Manufacturing	6
Construction	6
Computer Assisted Drafting (CAD)	3
New and emerging areas of technology such as bio-related technology, computer technology, and designing and problem solving	9

V. OTHER TYPES OF SPECIALIZED CERTIFICATION

The following areas are included:

- A. Adjunct Instructor
- B. Fine Arts
- C. Montessori
- D. Online Teaching

A. ADJUNCT INSTRUCTOR

Eligibility Requirements

1. The individual must have earned a bachelor's degree or higher from a regionally accredited college or university, and
2. A school district in the state must be willing to employ the individual as a teacher on a part-time basis in a content field at the middle or secondary school level, or in the related arts or physical education at the elementary level.

Application Requirements

3. The applicant must
 - (a) complete the application process for South Carolina educator certification, including an all-clear fingerprint review;
 - (b) have earned a bachelor's degree or higher with a major in the field of certification, or must submit passing scores on the content certification exam(s) required for the certification area; and
 - (c) submit verification of five years of occupational experience within the past ten years in, or related to, the content field of the certificate for which the individual is applying; and
4. The school district seeking to employ the individual must provide the following documentation to the Office of Educator Certification:
 - (a) a request and justification for employment of the instructor,
 - (b) an assurance that the employment of this instructor will not displace a certified teacher already employed, and
 - (c) an assurance that the adjunct instructor's teaching assignment will be less than a .5 full-time equivalent position and will not exceed two credit-bearing courses in an academic year.

Stipulations

The following stipulations apply to the South Carolina Adjunct Teaching Certificate:

5. The Adjunct Teaching Certificate is valid only in the sponsoring school district and is not transferrable to any other school district or state.
6. The adjunct instructor must be assigned a state-certified mentor in the same general subject area(s) in which the instructor is assigned to teach.
7. The adjunct instructor must be evaluated annually by the school district and must receive successful performance reviews for the certificate to be reissued for subsequent years at the request of the sponsoring school district.
8. The adjunct instructor must complete a minimum of 20 contact hours of professional development approved by the employing school district each three-year period the certificate is held.
9. The salary for the adjunct instructor will be determined by the employing school district.

B. FINE ARTS

1. Teachers for advanced fine arts programs who do not meet the requirements for certification in any existing area of certification will be issued an initial teaching certification if all of the following requirements are met:

- (a) The school district has in operation an advanced program in the fine arts that has been approved by the South Carolina Department of Education.
- (b) The school district superintendent requests certification for the prospective teacher in writing, describing the situation in which the teacher will work and the exact nature of the proposed duties of the teacher.
- (c) The candidate has earned an undergraduate or graduate degree in fine arts from a nationally or regionally accredited institution of higher education or an institution that has programs approved for teacher education by the State Board of Education in the area of the fine arts that the teacher is to teach.
- (d) The candidate presents evidence of at least two years of successful professional experience in the area of the fine arts that he or she is expected to teach.
- (e) The candidate presents an acceptable score(s) on the required teaching content-area examination(s).

2. The initial certificate in Fine Arts will be issued for three years. It can be renewed in accordance with Regulation 43-53.I.A. A total of twelve (12) semester hours of credit, which includes teaching methods and psychology of learning in graduate professional education, will be required for professional certification.

3. In addition to the graduate professional education requirement specified above, the initial certificate will be converted to the professional certificate upon successful completion of induction requirements, ADEPT, and the pedagogy examination required by the State Board of Education.

C. MONTESSORI

1. Levels of Montessori Certification

- Primary (3K–5K)
- Elementary I (Grades 1–3)
- Elementary II (Grades 4–6)
- Middle (Grades 6–8)

2. Individuals who wish to add Montessori to an existing certificate must meet the following requirements.

- (a) Bachelor's degree
- (b) Initial or professional certificate at the appropriate level (early childhood, elementary, middle, or preK–12 level *)
- (c) Completion of a training program at the appropriate level accredited by the Montessori Accreditation Council for Teacher Education (MACTE)

*A minimum qualifying score on the content area examination(s) required by the State Board of Education for early childhood, elementary, or middle level certification is also required for individuals with a prerequisite certificate in a preK–12 field who wish to add the appropriate Montessori level.

96 FINAL REGULATIONS

3. Individuals who wish to qualify for initial Montessori certification must complete a State Board of Education–approved undergraduate or graduate teacher preparation program in early childhood, elementary, or middle-level with a Montessori emphasis (i.e., includes all requirements for a MACTE training program) AND submit passing scores on the certification examinations approved by the State Board of Education at the appropriate level.

OR

4. Verify completion of a bachelor’s degree, a MACTE-approved training program, and passing scores on the appropriate certification examination(s) approved by the State Board of Education, including the pedagogy exam. Additional certification fields may not be added to an initial Montessori certificate under this option unless the educator completes a State Board of Education–approved teacher preparation program in the additional field.

D. ONLINE TEACHING

This is an optional add-on certification that is intended to enhance an educator's skills and knowledge beyond that required for traditional teaching and to prepare the individual to teach classes within an online environment.

Individuals who wish to add Online Teaching to an existing certificate must meet the following requirements.

1. Bachelor's degree
2. Initial or professional certificate at the middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content area examination(s) required by the State Board of Education
4. Specialized Preparation (required courses)*

	Semester Hours
Facilitating Online Courses Effectively	3
Effective Online Course Management	3
5. Elective Courses (select two courses from the list below)*

Approaches and Tools for Developing Web-Enhanced Lessons	2
Classroom Assessment Enhanced by Technology	2
Differentiating Instruction to Accommodate Learning Styles	2
Using Digital Portfolios to Foster Student Learning	2
Learning and Teaching with Web 2.0 Tools	2
South Carolina Online Resources	2

Waiver Provisions

Coursework listed above may be waived and certification in Online Teaching granted for teachers who have successfully taught three online courses through an accredited educational institution or professional development program within three years of application (URL or access to current online courses required).

*All coursework listed above will be offered online by the South Carolina Department of Education (SCDE) for graduate credit in conjunction with selected colleges or universities. Additional course options may be added as needed by the SCDE.

Fiscal Impact Statement:

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

Statement of Rationale:

The amendments to this regulation are needed to create additional certification options for adjunct instructor, Montessori, and online teaching; to clarify and align current course requirements for add-on certification in secondary mathematics; and to revise current certification requirements for Reading (Literacy).

Document No. 4116
STATE BOARD OF EDUCATION
 CHAPTER 43
 Statutory Authority: 1976 Code Sections 59-16-10 et seq.

43-248. South Carolina Virtual School Program

Synopsis:

The South Carolina Code of Laws authorizes the State Board of Education to promulgate regulations governing the operation of the South Carolina Virtual School Program. The Notice of Drafting for the proposed regulations was published in the State Register on August 28, 2009.

Instructions: The following new section of Regulation 43-248 is provided below.

Text:

43-248. South Carolina Virtual School Program

I. Overview of the South Carolina Virtual School Program

A. The State Board of Education (SBE) is authorized under S.C. Code Ann. Sections 59-16-10 through 59-16-80 to “establish the South Carolina Virtual School Program (SCVSP) to ensure consistent high quality education for the students of South Carolina utilizing technology-delivered courses.” These procedural regulations are based on that legislation.

B. The SCVSP legislation makes the following stipulations:

1. Any public, private, or homeschooled student legally residing in South Carolina who is twenty-one years of age or younger is eligible to enroll in the SCVSP.

2. A private school or homeschooled student enrolled in the SCVSP is not entitled to receive any of the services or privileges that are available to public school students other than the right to receive an appropriate unit of credit for a completed course.

3. The SCVSP is not a school but a program; therefore, it is not authorized by statute to issue a state high school diploma.

C. These regulations—which are predicated on the SCVSP statute, other state statutes, and SBE regulations—are subject to modification by the South Carolina Department of Education (SCDE) only if those statutes or regulations are amended.

II. SCVSP Sponsorship

A. Sponsor Registration

1. In order to become a SCVSP sponsor, a public school district, a public school, a private school, or a homeschooling parent (statutes that apply to homeschooling are S.C. Code Ann. Sections 59-65-40, 59-65-45, 59-65-46, and 59-65-47) must be registered with the SCVSP.

2. In order to be registered as a SCVSP sponsor, the school district, public school, private school, or homeschooling parent must fulfill the following requirements:

98 FINAL REGULATIONS

- a. have in place a program of studies that leads to a diploma,
- b. comply with the policies governing online courses established by the SCVSP,
- c. identify the individual(s) who will advise the student regarding courses he or she will need to earn a diploma,
- d. identify the individual who will assist the student in resolving any technology issues that may arise, and
- e. identify the individual who will be responsible for submitting the names of those students who will need to access the student technology proficiency assessment.

B. Sponsor Responsibilities

1. All registered SCVSP sponsors must fulfill the following responsibilities:

- a. verify that a student is a legal resident of the state of South Carolina before enrolling him or her in the SCVSP,
- b. update sponsor registration information, and
- c. respond to a student's request to enroll in a SCVSP course.

2. A sponsor may forfeit its right to enroll students in the SCVSP if it fails to abide by these requirements.

III. SCVSP Student Enrollment

A. Student Responsibilities

1. Sponsor Approval

a. The student must secure approval to take a specific course from the public school or district or nonpublic sponsor:

(1) *In-school students*—those who are in membership in a public school (includes homebound, home placed, and off-campus students and students enrolled in an adult education program)—must have approval from the school principal or his or her designee.

(2) *Nonpublic school students*—those who are not in membership in a public school but are instead enrolled in a private school or are homeschooled—must have approval from the nonpublic sponsor:

(a) the private school that the student attends, or

(b) the homeschooling parent/legal guardian.

(3) *Out-of-school students*—those who have not officially withdrawn from a particular public school and are entered in the student database as non-funded (includes expelled students) or those who have not officially withdrawn from a particular private school—must have approval from the district superintendent or the head of the private school. If a district or private school policy does not allow credit to be recorded on an *out-of-school* student's transcript, the student cannot be granted approval to take a SCVSP course.

b. A sponsor may not give approval to a student to retake a course through the SCVSP if a unit of credit for that particular course is already recorded on his or her official transcript.

c. A student who is no longer enrolled in any school and who is at least seventeen years of age must enroll in a public adult education program for sponsorship to take a course from the SCVSP.

2. Computer Proficiency and Access

a. The student must successfully complete the student technology proficiency assessment in order to enroll in the SCVSP for the first time.

b. The student must furnish his or her own computer, or have access to one, and must have Internet access in order to take the SCVSP courses, although the sponsor is not prohibited from providing these.

3. Online Agreements

a. The student must indicate a willingness to abide by the acceptable use policy posted on the SCVSP Web site.

b. The student must agree to abide by the SCVSP policies and expectations posted on the SCVSP Web site.

4. Online Application

a. The student must complete an online application and select a preferred start date for the course(s) he or she has approval to take.

b. The student, upon being notified by the SCVSP that his or her application has been approved, must contact his or her instructor within three days of the start of class.

B. Parent/Legal Guardian Responsibility

1. The parent/legal guardian of a student who is seventeen years of age or younger must give approval for the student to take a course with the SCVSP program.

2. The parent/legal guardian of a student who is seventeen years of age or younger must agree that the student will abide by the acceptable use policy posted on the SCVSP Web site.

C. SBE Responsibility

1. The SBE will implement a system for prioritizing the students who have enrolled in SCVSP courses if the SCVSP is unable to provide the courses these students need.

2. First priority will be given to students needing an initial credit course(s) to graduate on time.

3. The next priority will be given to those students who need to take a content recovery course required for graduation.

4. The next priority will be given to those students who need to take a course(s) needed for graduation not being offered in their schools.

5. Beyond these three priorities, students will be served on a first-come, first-served basis.

100 FINAL REGULATIONS

IV. SCVSP Course Grades and Units of Credits

A. SCVSP Responsibilities

1. The SCVSP must provide to the student's sponsor a certified grade report specifying the course title, the inclusive course dates, the final numeric grade, the quality points, and the unit value after the student has completed the final exam(s).

2. The certified grade report for courses requiring an End-of-Course Examination Program (EOCEP) test will be provided to the sponsors of all nonpublic school students after the test has been administered. The final numeric grade on this report will be calculated in accordance with the requirements outlined in Regulation 43-262.4, End-of-Course Tests.

3. The SCVSP may authorize another entity to provide the grade report to a nonpublic sponsor.

4. The SCVSP must maintain student course records.

5. The SCVSP must limit to three the number of units a student can be awarded in a school year and must limit to twelve the number of units a student can be awarded toward his or her diploma, regardless of the number of sponsors the student has had.

6. A student may file a request to the governing body of his or her SCVSP sponsor for a waiver to exceed the maximum number of units. The request for a waiver must be filed for each unit beyond the maximums.

a. The student must submit to the governing body a written application requesting the waiver.

b. The application must be signed by the principal of the sponsoring school or the head of the nonpublic sponsor and by the student's parent or legal guardian.

c. The governing body of the student's SCVSP sponsor may consider granting the waiver if all of the following conditions are found to exist:

(1) the student has successfully completed all prior SCVSP courses,

(2) the waiver will facilitate the student's graduation from high school, and

(3) there are special circumstances that warrant allowing the student to take additional SCVSP courses.

d. The governing body must advise the SCVSP of its decision on the waiver in a written statement and must explain in detail its findings with regard to each of the three required conditions.

5. The SCVSP will post on its Web site a form for the waiver request explained above.

B. Sponsor Responsibilities

1. All sponsors must award the numeric grade and unit value to the student enrolled in a course through the SCVSP by recording them on the student's transcript in his or her permanent record in the same manner as is done with any other course the student takes.

2. All nonpublic sponsors must contact the district test coordinator in the public school district in which they reside to arrange for students to take the appropriate EOCEP tests online.

3. Each district must determine whether it will charge nonpublic sponsors a fee for the administration of the EOCEP tests. If a fee is charged, it must be reasonable and must be directly related to the district's added costs for providing this testing service and cannot exceed the fee established by the SBE.

4. All sponsors must ensure that the final examination for each course is conducted in a proctored environment.

5. All sponsors must inform the SCVSP when a student is taking a SCVSP course under a school district "content recovery" program.

6. All sponsors must retain for a period of three years the residency records of every student enrolled in the SCVSP.

7. All sponsors must provide all reports as stipulated in these regulations.

8. Units earned by a student through the SCVSP will be accepted in the public schools if the student presents his or her grade report from the SCVSP or if his or her transcript reflects the numeric grade and unit value that were recorded on the grade report issued by the SCVSP.

C. Student Responsibilities

1. The student must complete all assignments, course examinations, and state assessments that are required for the particular course in order for the SCVSP to issue the grade report.

2. The student must complete the course requirements within twenty weeks or request an extension from his or her instructor.

D. Instructor Responsibilities

1. The instructor must establish the minimum course requirements that the student must complete.

2. The instructor must consult the SCVSP to determine whether the circumstances surrounding the student's request for a course extension beyond the twenty weeks is warranted.

V. EOCEP Assessments

A. All EOCEP tests must be administered under the supervision of a public school district in accordance with stipulations specified in the current SCDE EOCEP test administration manual. All test security statutes and SBE regulations in this manual apply to nonpublic sponsors and nonpublic students.

B. A student who is taking a course for which an EOCEP test is required must take the test online in the school district where he or she resides. If an online testing location is unavailable, the district's test coordinator must find a location in a nearby district. The district's responsibility extends no further than locating the test site.

VI. SCVSP Course-Selection Procedures and Criteria

A. The SCVSP may offer a particular course only if that course is either

1. required to be offered by Regulation 43-234, Defined Program, Grades 9–12; or

2. requested by students, parents, or sponsors on the SCVSP online survey; or

102 FINAL REGULATIONS

3. requested by a sponsor under circumstances that the SCVSP deems valid.

B. The SCVSP must ensure that any course it develops, purchases, or contracts meets the following three criteria:

1. is aligned with the state academic standards,
2. integrates high quality Web-based strategies into instruction, and
3. uses the level of technology required for a computer-mediated environment.

VII. SCVSP Course Costs

A. The SBE will determine when and if the SCVSP may charge fees and tuition. If program funds are either reduced or unavailable, the SCVSP may charge a fee to students not to exceed the cost of the instructor divided by the number of students enrolled in the course. Students eligible for free and reduced lunch will not be charged.

B. In addition, the SCVSP may contract with districts/schools to provide a course(s) to a class of students enrolled in that course during a specific period of the school day and/or districts/schools that wish to guarantee that their students are served regardless of their priority.

VIII. SCVSP Instructors

A. Instructor Employment

1. The SCDE is responsible for employing all SCVSP instructors.
2. Instructors may be employed either as SCDE-classified staff or as SCDE-contracted adjunct staff.

B. Instructor Qualifications

1. A SCVSP instructor must either hold a valid teaching certificate (with attendant training, if required) in the subject area he or she is teaching or receive special approval from the SCDE on the basis of his or her credentials.

2. An in-state SCVSP instructor who does not hold a valid South Carolina teaching certificate or who has not been employed by a South Carolina public school district in the last five years must undergo a criminal records check by the South Carolina Law Enforcement Division. An out-of-state SCVSP instructor must undergo any criminal records check that the SCDE determines to be necessary.

C. Instructor Requirements

1. SCVSP instructors must successfully complete all SCVSP pre-service and in-service training requirements.

2. Training topics must include the development and organization of online courses; the technical aspects of online course delivery; the management of virtual classrooms; and the monitoring and assessment of student performance, progress, and achievement.

D. Instructor Evaluation

1. SCVSP instructors who are SCDE-classified staff will be evaluated in accordance with state laws and regulations. SCVSP instructors who are SCDE-contracted adjunct staff employed under state procurement laws will be evaluated on the basis of the same criteria as are SCDE-classified staff.

2. SCVSP instructors must meet all applicable Assisting, Developing, and Evaluating Professional Teaching (ADEPT) requirements.

E. Instructor Loads

1. The student load for each instructor is determined by the particular course(s) the instructor is teaching.

2. The teaching load for each instructor must not exceed twenty-five course-completing students at any given time.

IX. Required Reports

A. Sponsor Responsibility

1. School districts and nonpublic sponsors must report to the SCVSP the reason for a student's withdrawal from a course at the time he or she withdraws.

2. The report must be submitted at the time the student withdraws.

B. SCVSP Responsibility

1. The SCVSP will report to the SBE annually.

2. The report must contain the following information:

- a. the courses being offered through the SCVSP during the current school year,
- b. the number of local school districts participating and the number of the district students participating,
- c. the number of private schools participating and the number of the private school students participating,
- d. the number of homeschool students participating,
- e. the success rates for students by courses,
- f. the number of students who withdraw from a course and the reason for each student's withdrawal,
- g. the number of students who were prevented from enrolling in a course because of space limitations,
- h. the total monies expended by the SCVSP, and
- i. the results of the SCVSP online survey of students, parents, and sponsors.

C. SCDE Responsibility

1. The SCDE will provide the Education Oversight Committee with access to student records annually.

2. All records must contain final course grades and scores on state assessments.

104 FINAL REGULATIONS

Fiscal Impact Statement:

None.

Statement of Rationale:

The 2008 Code mandates that the South Carolina Board of Education develop and promulgate regulations to govern the implementation of the South Carolina Virtual School Program.

A copy of the statement of rationale may be obtained by contacting Dee Appleby, Director, Office of eLearning, South Carolina Department of Education, 3710 Forest Drive, Columbia, South Carolina 29204 or e-mail dappleby@ed.sc.gov.

Document No. 4107

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Sections 44-1-60 and 44-93-10 et seq.

61-105. Infectious Waste Management

Synopsis:

The Department of Health and Environmental Control has amended R. 61-105, South Carolina Infectious Waste Management Regulations. These Regulations were previously amended June 24, 2005. Amendments include:

(1) The embalming process as a potential source of regulated infectious waste and set storage and treatment standards for this waste. Amendments provide an exemption from treatment facility permitting requirements for facilities whose only treatment of infectious waste is related to the embalming process and is performed for the purposes of meeting this standard.

(2) Allowances for alternate recordkeeping and communication have been developed for generators and transporters in regards to weight, biohazard marking and manifesting.

(3) Duplicated requirements have been deleted, including a continual refrigeration requirement and radiological monitoring by transporters.

(4) New requirements have been added for situations that could create a public health risk that have not been addressed in the past, including unattended vehicles carrying infectious waste and the storage and disposal of infectious waste treatment residue.

(5) Additionally, clarifications have been made to the Regulation to address the handling and treatment of regulated infectious waste by small quantity generators and transporters.

(6) The amendments add or clarify definitions used in the Regulation.

(7) Stylistic changes include corrections for internal consistency, clarification, references, and spelling in an effort to improve the overall text of the Regulation.

(8) Requirements were brought into compatibility with federal Department of Transportation regulations.

(9) Transporters who meet the United States Postal Service Domestic Mail Manual packaging requirements were exempted from obtaining a permit provided that only packages that meet this requirement are transported.

(10) Generator registration and fee requirements have been clarified.

(11) Facilities that close will be required to notify the Program.

(12) The Department also proposes to create an appeals section of R.61-105 to comply with statutory changes in the Administrative Appeals process pursuant to S.C. Code Section 44-1-60 (2006 S.C. Act 387).

A Notice of Drafting for this amendment was published in the *State Register* on June 26, 2009.

Below are changes made to the proposed regulation during the legislative review

**process, as requested by the Senate Medical Affairs Committee
by its letter dated March 25, 2010:**

61-105.D. Definitions.

The section outline enumeration at D(1) was reorganized from existing definition “(w).”

61-105.J. Labeling of Containers.

At 61-105.J(3), a cross reference was corrected from (a) and (d) to (a) and (c).

61-105.N. Infectious Waste Transporter Requirements.

The enumeration as proposed was corrected and changed from N(10) to N(11).

61-105.O. Transport Registration Requirements.

At 61-105.O(3), a cross reference was corrected from O(1)(c) to O(1)(f).

61-105.Q. Transporter Vehicle Requirements.

The proposed changes at 61-105.Q(1)(g) introductory paragraph and Q(1)(g)(iii) were removed and the text was returned to the existing text of R.61-105. Subitem 61-105.Q(1)(h) was added for clarification that the biohazardous symbol sign must appear on four sides of the transporter vehicle to meet the US Department of Transportation requirements.

**Below is DHEC’s Section-by-Section Discussion of Revisions
as submitted to the General Assembly for review on January 28, 2010:**

R.61-105. Infectious Waste Management

D(1) Definitions - At D(1) five definitions are added in alphabetical order. Three existing definitions are revised.

New definitions include: “Generator registration status,” “Pump event,” “Site,” “Small quantity generator,” and “Treatment residue.”

The definitions for “Manifest,” “Storage,” and “Universal biohazard symbol” are revised.

E. Definition of Infectious Waste.

E(1) introduction and (1)(a) are expanded by adding the embalming process, revising paragraph E(1), and expanding the category of sharps at (1)(a). E(1)(b) will be revised to clarify that only waste culture media are to be regulated as infectious waste.

E(2)(c) is revised to match the EPA definition of mixed waste.

F. Generator Requirements.

F(1)(f) deletes the word “and” at the end.

F(1)(g) is revised to clarify generator registration requirements.

F(1)(h) adds: “the method of waste treatment and disposal; and”

F(1)(i) adds: “the Employer Identification Number (EIN).”

106 FINAL REGULATIONS

F(3) is revised to add requirements for records submitted as part of the registration requirements for facilities that store liquid treatment residue in holding tanks.

F(4) is revised to clarify generator fee requirements.

F(5) is revised to require generators to track infectious waste through transport instead of through disposal to be consistent with US DOT requirements. Statement is also clarified so that only generators who treat their own waste must develop a contingency plan and Quality Assurance program.

F(6)(c) language is changed from “initiate the manifest” to “ensure a manifest is initiated” to clarify language outlining manifest form requirements for generators. Generators retain the responsibility to initiate a manifest but are allowed to delegate the initiation of a manifest.

F(6)(i) is revised to allow generators to offer waste to the U.S. Postal Service or a registered transporter.

F(6)(j) changes the requirements of generators from requiring the generator to actually weigh the waste at the time of the shipment to requiring the generator to obtain and record accurate weight of waste within 50 days of shipment. An exemption is provided for unabsorbed liquid waste produced during the embalming process.

F(7) adds a requirement that the Department must be notified in writing when a generator relocates, closes, or ceases to generate infectious waste or treatment residue. If a generator relocates, closes, or ceases to generate waste, all treatment residue must be disposed of in accordance with this regulation.

F(8) is added to allow registered generators to accept non-regulated infectious waste generated in private residences and to specify how this waste must be handled, stored, transported, and treated.

G. Small Quantity Generators.

Revises paragraph G(1), G(1)(a) and (b); deletes (b)(i) and (ii). New sections G(2)(b & c) are added to match US DOT requirements, and old G(2)(b & c) are renumbered. G(3) remains the same. G(4) is revised for clarity. Section G revisions define limits and inclusions for requirements of Small Quantity Generators.

I. Packaging Requirements.

I(1) sets standards for packaging of waste by generators and sets the transport standard for infectious waste if it is to be transported by the U.S. Postal Service as established in the Domestic Mail Manual.

I(2) is revised to include the responsibility of all potential parties for packaging sharps.

I(3) revises language to be more realistic in Program expectations.

I(4) is revised to clarify container requirements.

I(5) sets the standards for how and when a container must be sealed to prevent facilities from holding a container indefinitely once it is full by volume or weight or putrescence. Once closed, containers are subject to the time limits in Section K(5)(a). Revise to indicate that containers must be sealed tightly and securely.

I(7) revises the list of examples of containers and explicitly state that they are prohibited from use as rigid containment areas.

I(8) is revised to separate and clarify requirements.

I(9) is revised to clarify what kinds of containers are acceptable.

I(10) is revised to clarify the prevention of compaction.

I(12) After the words “or outer container,” add: “immediately after treatment” to require that treated containers whose appearance does not change due to treatment must be labeled with the word “treated” and date of treatment at the time of treatment.

J. Labeling of Containers.

J(1) is revised to make sure the container is labeled once it is sealed.

J(2)(a) revises the cross reference for the requirements of the Universal biohazard symbol. The reference to “29CFR1910.1030(g)(1)(I)(B)” is deleted.

J(2)(b) is revised to eliminate the requirement for labeling a container with the name of the facility.

J(2)(c) and (f) are deleted to match US DOT regulations. J(2)(d) & (e) are renumbered to J(2)(c) & (d). New J(2)(c) is revised to add the word “and” at the end. J(2)(d) should be revised to delete the word “and.”

K. Storage of Infectious Waste.

K(1) adds: “Storage begins at the time the container is sealed.” to establish when storage begins. No changes are made to K(1)(a), (b), or (c).

K(2) revises list of the examples of outdoor storage to eliminate confusion.

K(4) revises the cross reference for the requirements of the Universal biohazard symbol. The reference to “29CFR1910.1030(g)(1)(I)(B)” and the requirement for other wording is deleted.

K(5)(d) is deleted to eliminate a requirement for continual refrigeration for generators, transporters, intermediate handling facility operators, and transfer facility operators.

M. Manifest Form Requirements For Generators.

This section has been substantially revised to break out lists of requirements into separate sections in an effort to state the requirements for generators more clearly.

M(1) language is changed from “on a form approved by the Department” to “using DHEC Form 2116 or another Department approved form” to let generators and transporters know which DHEC form to use.

M(1)(a) through (m) have been reorganized and renumbered. M(1)(b) is revised to change when the requirements for a registration number on a manifest form is applicable. Delete M(1)(d), (i), (l), and (m) to match US DOT requirements. Revise the old (g) to include radioactive waste as well as radioactive material. Revise the old (j) and (k) to include the word “accept” instead of “receive” to be consistent with the language in the rest of the document. Revise old (e) to match US DOT requirements.

M(2) language is changed from “initiate the manifest” to “ensure a manifest is initiated as” to clarify language outlining manifest form requirements for generators. Generators retain the responsibility to initiate a manifest but are allowed to delegate the initiation of a manifest.

M(3) is revised to match new numbering for M(1)(e), (f), and (g) and to add the option of a generator signing other than by hand.

M(4) is revised to delete reference to transporter signing manifest.

108 FINAL REGULATIONS

M(5) delete to match US DOT standards.

N. Infectious Waste Transporter Requirements.

N(6) is revised to delete the redundant requirement for transporters to adhere to their waste management plan, as this is also in N(7).

N(6)(d) is removed to ease the burden on transporter requirements by not requiring transporters to do radiological monitoring. Generators are required to hold waste until it is indistinguishable from background and radiological monitoring of waste is required of treatment facilities rendering transporter monitoring redundant. Renumber old (6)(e) as (6)(d).

N(7) is revised to clarify that transporters must submit a written infectious waste management plan annually with their registration and to separate clauses into different paragraphs.

N(9) is revised to clarify potential ramifications if a discharge of infectious waste occurs during transport.

N(10) is revised to assure that transporters no longer allow access to transport vehicles by unauthorized personnel.

O. Transporter Registration Requirements.

O(1) is reorganized to break down the requirements into individual sections for clarity.

O(2) Introductory paragraph language is changed from “as outlined in the Environmental Protection Fees, Regulation 61-30” to “as referenced in Section DD.” to reference a different section of the Regulation. Subsections (a), (b) and (c) remain the same.

O(6) After the first sentence, add: “Transporters who only transport into or within this state regulated infectious waste packaged in accordance with United States Postal Service Domestic Mail Manual infectious waste packaging requirements are also exempt from registration.” This revision is reasonable because Domestic Mail packaging requirements are stringent enough to assure safety of the public health and the environment.

Q. Transport Vehicle Requirements.

Q(1)(a) revise language to be more realistic in Program expectations.

Q(1)(g) The requirement that the cargo carrying body be labeled on the front is added to be consistent with U.S. DOT requirements.

Q(1)(g)(i) adds: “registered” to clarify the transporter requirements.

Q(1)(g)(iii) after the words “BIOHAZARDOUS WASTE” add: “and the universal biohazard symbol.”

Q(2) is revised to change which paragraphs of Section E are referred to.

R. Manifest Requirements for Transporters.

R(2)(a) remains the same. Delete (2)(b) to match US DOT standards. Renumber old (2)(c) as (2)(b).

R(2)(b) is revised to delete the reference to signing, as this is no longer required.

R(5)(a) delete to match US DOT standards. Renumber old (5)(b) and (c) as (5)(a) and (b). New R(5)(a) is revised to delete signed and add completed, as signing is no longer required.

R(6) is revised to remove the language requiring the transporter to deliver waste to an entity listed on the manifest to match US DOT standards.

R(7) delete paragraph to be consistent with other proposed changes in Section R. Renumber old R(8) as R(7).

Revise R(8)(a) is revised to add the word “and” at the end.

R(8)(b) delete paragraph to match US DOT standards, renumber old R(8)(c) as R(8)(b).

S. Storage Tank Requirements.

S. This reserved section is revised to add requirements for tanks used for storing treatment residue at generating facilities. Remove “Reserved” status and add requirements for tanks.

T. Infectious Waste Treatment.

T(1) The wording from T(4) is moved to this paragraph to indicate all possible disposition of waste and treatment residue. “Infectious waste must be treated prior to sanitary landfill disposition” is replaced with “After approved and adequate treatment, the treatment residue must be disposed of in accordance with state and federal solid waste requirements” and the second sentence “Any unused treatment media must be characterized, handled, and disposed of in accordance with applicable regulations.” is added.

T(2)(c) “or” is deleted after the paragraph.

T(2)(d) A new paragraph is added to define the concentration levels of embalming fluid that is being regulated. Renumber old T(2)(d) as T(2)(e).

T(4) is deleted since the language was moved to T(1). Old T(5) through (10) are revised and renumbered for clarification and addition of requirements.

U. Infectious Waste Treatment Facility Standards.

U(1) is revised to clarify where exemptions are to be found for infectious waste treatment facilities standards by adding the words: “except as exempted in section T.” after the words: “as required by this regulation.”

U(7)(e) is changed substantially for consistency to “It is unlawful for any person to discharge infectious waste or treatment residue into the environment of this State except as permitted by the Department. If a release of infectious waste or treatment residue to the environment is known or suspected, the facility must report to the Department within twenty-four (24) hours and immediately investigate and confirm all suspected releases. Action may then be required by local, state, or federal officials so that the infectious waste or treatment residue discharge no longer presents an actual or potential hazard to human health or the environment.”

U(8) is revised to clarify who must receive training at an infectious waste treatment facility.

U(10)(a) language is changed from “Division of Radioactive Waste Management” to “Department.”

U(10)(e) language is changed from “Division of Radioactive Waste Management” to “Department.”

U(13)(a) is revised to assure that destruction of infectious waste includes the packaging by adding the words: “and packaging” after the words “of the waste.”

110 FINAL REGULATIONS

V. Intermediate Handling Facilities Standards.

V(1) adds a paragraph to explicitly state that intermediate handling facilities must have a permit. Renumber old V(1) through V(8) as V(2) through V(9).

V(5)(e) This revised paragraph changes the reporting requirement for consistency with other parts of this regulation.

V(6) revise to clarify who must receive training at an infectious waste treatment facility.

X. Permit By Rule.

X(1) correct to clarify that infectious waste generators are the only facilities eligible to qualify for a Permit by Rule under this regulation.

X(2) No changes are made.

X(3) revise to specify which facilities must apply for an infectious waste treatment permit.

Y. Manifest Form Requirements For Permitted Treatment Facilities.

Y(2)(a), (d), (e), (f), and (g) are deleted to match US DOT standards. Renumber Y(2)(b), (c), and (h) as (a) (b) and (c); at the new (2)(b) change one percent to ten percent and add the word “and” at the end of the sentence; in the new (2)(c) change three years to two (2) years.

Y(3) delete after combining requirements with those in Y(4) and Y(5). Renumber old Y(4) and Y(5) as Y(3) and Y(4).

AA. Inspections and Record Keeping.

AA. reorganizes the Regulation so that the authority for the Department to inspect facilities and check records are in one section and reorganizes the rest of the section accordingly. The title will be changed to “Inspections and Record Keeping.”

AA(1) moves language from BB(3) which provides authority to Departmental representatives to enter and inspect facilities to ascertain compliance with this regulation.

AA(2) changes three (3) years to two (2) years to match US DOT standards. Renumber original paragraph (1) as(2) Allow record storage as paper or electronically.

AA(3) changes three (3) years to two (2) years to match US DOT standards. Revise last sentence for clarity and to remove off-site manifest requirement. Renumber original paragraph (2) as (3). Allow record storage as paper or electronically.

AA(4) adds new paragraph at AA(4). The added paragraph sets requirements for record maintenance and retention and adds the requirements to the Regulations that authorizes the Department to inspect these records: “If the waste is no longer infectious because of treatment, and the treatment residue is stored onsite in a tank, the generator shall maintain a record of monitoring and pump events for two (2) years afterward to include the date and type of monitoring, who conducted the monitoring, date and amount of waste pumped, and the name of the business or person that provided the pumping service. Pump event data may be in the form of a manifest or log. Records shall be maintained by the generator for a minimum of two (2) years in a location easily accessible to the Department and shall provide these records to the Department upon request.”

BB. Enforcement.

BB(1) and (2) are unchanged. BB(3) is deleted.

EE. Appeals

“EE. Appeals” is added; EE(1) and (2) add provisions pursuant to Act 387 (2006) at South Carolina Code of Laws, Section 44-1-60.

Instructions: Amend R.61-105 using each individual instruction provided with the text below.

Text:

The following sections have been added, deleted, or revised. All other sections of R.61-105 will remain.

D(1) Definitions.

Add five new definitions in alphabetical order: “Generator registration status;” “Pump event;” “Site;” “Small quantity generator;” and “Treatment residue.” Revise the definitions for “Manifest,” “Storage,” and “Universal biohazard symbol.” Reorganize Section D(1) outline from existing definition “(w).”

(w) “Generator Registration Status” means classification of a facility that generates regulated infectious waste, based on the largest amount documented by weight in any one calendar month of the last 12 (twelve) consecutive calendar months.

(x) “Hazardous waste” means a Resource Conservation and Recovery Act (RCRA) hazardous waste as defined in R.61-79.261.3 of the S. C. Hazardous Waste Management Regulations.

(y) “Infectious waste” or “waste” means a material as defined in Section E of this regulation.

(z) “Infectious waste management” means the systematic control of the collection, source separation, storage, transportation, treatment, and disposal of infectious waste.

(aa) “Intermediate handling facility” means any transportation related facility including loading docks, parking areas, storage areas and other similar areas where shipments of infectious waste are held and/or handled for storage during the normal course of transportation and may be off loaded and on loaded.

(bb) “Manifest” means the shipping document authorized and signed by the generator which contains the information required by this regulation.

(cc) “Offsite” means not onsite.

(dd) “Onsite” means the same or geographically contiguous property which may be divided by public or private right-of-way provided the entrance and exit between the properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way.

(ee) “Person” means an individual, partnership, co-partnership, cooperative, firm, company, public or private corporation, political subdivision, agency of this State, county, or local government, trust, estate, joint structure company, or any other legal entity or its legal representative, agent, or assigns.

(ff) “Products of conception” means fetal tissues and embryonic tissues resulting from implantation in the uterus.

112 FINAL REGULATIONS

(gg) “Pump Event” means any action where treatment residue is removed from a tank holding treatment residue.

(hh) “Radioactive material” means any and all equipment or materials which are radioactive or have radioactive contamination and which are required pursuant to any governing laws, regulations or licenses to be disposed of or stored as radioactive material.

(ii) “Release” means to set free from restraint or confinement.

(jj) “Secured area” means an area which is fenced with a locking gate or which is regularly patrolled by security personnel which prevents access by the general public. An area which has controlled access and barriers to prevent exposure of the general public.

(kk) “Site” means contiguous land, structures, and other appurtenances and improvements on the land used for generating, treating, storing, transferring or disposing of regulated infectious waste with the same ownership.

(ll) “Small quantity generator” means any in-state generator that produces less than fifty (50) pounds of infectious waste per calendar month.

(mm) “Solid waste” means any garbage, refuse, or sludge from a waste treatment facility, water supply plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agriculture operations, and from community activities. This term does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended. Also excluded from this definition are application of fertilizer and animal manure during normal agricultural operations or refuse as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste, which will not have a significant adverse impact on the environment.

(nn) “State” means the State of South Carolina.

(oo) “Storage” means the actual or intended holding of infectious wastes, either on a temporary basis or for a period of time, in a manner as not to constitute disposing of the wastes.

(pp) “Supersaturated” means the condition when any absorbent material contains enough fluid so that it freely drips that fluid or if lightly squeezed, that fluid would drip from it.

(qq) “Transfer facility” means any transportation related facility where shipments of infectious waste are held during the normal course of transportation, but are not off loaded or on loaded into fixed storage areas.

(rr) “Transport” means the movement of infectious waste from the generation site to a treatment facility or site for intermediate storage and/or disposal.

(ss) “Transporter” means a person engaged in the offsite transportation of infectious waste by air, rail, highway, or water.

(tt) “Transport vehicle” means a method used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

(uu) "Treatment" means a method, technique, or process designed to change the physical, chemical, or biological character or composition of infectious waste so as to sufficiently reduce or eliminate the infectious nature of the waste.

(vv) "Treatment facility" means a facility which treats infectious waste to sufficiently reduce or eliminate the infectious nature of the waste.

(ww) "Treatment residue" means the solid or liquid part that remains after infectious waste has been treated to sufficiently reduce or eliminate the infectious nature of the waste.

(xx) "Universal biohazard symbol" means the symbol design that conforms to the design shown in the Federal Occupational Safety and Health Administration (OSHA) Standards .

E(1) Definition of Infectious Waste.

Amend E(1) introductory paragraph and E(1)(a) and (b). Other sub items remain the same:

(1) An infectious waste is any used material which is: generated in the health care community in the diagnosis, treatment, immunization, or care of human beings; generated in embalming, autopsy, or necropsy; generated in research pertaining to the production of biologicals which have been exposed to human pathogens; generated in research using human pathogens; and which is not excluded in two (2) below and which is listed in the categories below:

(a) Sharps.

Any discarded article that may cause puncture or cuts, including but not limited to: needles, syringes, Pasteur pipettes, lancets, broken glass or other broken materials, and scalpel blades.

(b) Microbiologicals.

Specimens, cultures, and stocks of human pathogenic agents, including but not limited to: waste which has been exposed to human pathogens in the production of biologicals; discarded live and attenuated vaccines; and discarded culture dishes/devices used to transfer, inoculate, and mix microbiological cultures.

Amend E(2)(c). Other sub items remain the same:

E(2)(c) Mixed waste containing regulated quantities of both RCRA hazardous waste and source, special nuclear, or byproduct material subject to the Atomic Energy Act of 1954, as amended, are to be managed pursuant to all applicable regulations.

F. Generator Requirements.

Amend F(1)(f)and (g); add new (h) and (i):

(f) a contact name of the infectious waste coordinator;

(g) the categories and corresponding amount of infectious waste generated annually (estimated within plus or minus (+ or -) twenty (20) percent;

(h) the method of waste treatment and disposal; and

(i) the Employer Identification Number (EIN).

114 FINAL REGULATIONS

Revise paragraph F(3), (4) and (5) to read:

(3) Renewal of registration will be every three (3) years for all generators. Registered generators will be notified of renewal requirements by the Department. Facilities that store liquid treatment residue in holding tanks must submit records showing monitoring and pump events for the previous twelve (12) consecutive calendar months.

(4) Fees for registration will be due at the time of initial registration and annually thereafter. Fees will be assessed in accordance with Section DD based on generator's registration status.

(5) Each generator must have a designated infection control committee with the authority and responsibility for infectious waste management. This committee must develop or adopt a written protocol to manage the infectious waste stream from generation until offered for transport. If the generator treats infectious waste onsite, the written protocol must include contingency plans and a Quality Assurance program to monitor these onsite treatment procedures. Small quantity generators are not required to have an infection control committee or a written protocol.

Revise F(6)(c), (i), and (j):

(6) Each generator must:

(c) ensure a manifest is initiated if waste is to be transported offsite as outlined in Section M of this regulation;

(i) offer infectious waste for offsite transport only to a transporter who maintains a current registration with the Department or the U.S. Postal Service; and

(j) Obtain and record accurate weight of waste within fifty (50) days of shipment. Unabsorbed liquid waste produced during the embalming process is exempt from this requirement.

Revise F(7); Add new F(8):

(7) When a waste generator relocates, closes or ceases to generate infectious waste, the generator must, within thirty (30) days, dispose of all infectious waste and treatment residue in accordance with this regulation and the Department must be notified in writing.

(8) A registered generator of infectious waste may accept non-regulated infectious waste generated in a private residence, but once accepted, the generator shall assume full responsibility of generation and manage the waste according to this and all applicable regulations.

G. Small Quantity Generators.

Revise paragraph G(1), G(1)(a) and (b); delete (b)(i) and (ii). Revise G(2)(b) as indicated and G(3) remains the same. Revise paragraph G(4) as indicated

(1) All in-state generators must comply with the provisions of Section E; Section F, Parts 1-3, 6-8; and the following:

(a) sharps, microbiological cultures, products of conception, and human blood and blood products must be managed pursuant to this regulation including but not limited to: packaging, treatment and weight generation rate requirements; and

(b) small quantity generators may dispose of all other infectious waste as solid waste after properly packaging to prevent exposure to solid waste workers and the public.

(2) Generators who qualify as small quantity generators, as defined above, may transport their own waste provided:

- (a) they never transport more than fifty (50) pounds at any one time;
- (b) the vehicle is identified as required in Section Q(1)(g);
- (c) the waste is manifested as required in Section M;
- (d) the waste is packaged and labeled as required in Section I and Section J; and

(e) the waste is not transported in the passenger compartment of the vehicle and is in a fully enclosed compartment which protects the container from weather conditions which would compromise the integrity of the container.

(4) If, in any calendar month, fifty (50) pounds of infectious waste or more is produced, the generator must notify the Department in writing; manage infectious waste pursuant to the entire regulation; and pay the annual fee as outlined in Section DD of this regulation. A generator will be able to claim designation as a small quantity generator after submitting documentation demonstrating twelve (12) consecutive calendar months of waste production less than fifty (50) pounds, or if at the time of registration, the generator estimates that less than fifty (50) pounds a month will be generated.

I. Packaging Requirements.

Revise I(1), (2), (3), (4), and (5) as shown:

(1) Generators shall assure that infectious waste is packaged in accordance with the requirements of this section and to prevent any release of infectious waste from its packaging before storing, transporting, or offering for transport offsite. Absorbents may be used to aid in the prevention of releases. Waste transported by the U.S. Postal Service must meet the packaging requirements for infectious waste in the Domestic Mail Manual.

(2) All sharps shall be placed and maintained in rigid, leak resistant, and puncture resistant containers which are secured tightly to preclude loss of the contents and which are designed for the safe containment of sharps.

(3) All other types of infectious waste must be placed, stored, and maintained before and during transport in a rigid or semi-rigid, leak resistant container which is impervious to moisture.

(4) Containers must have sufficient strength to prevent bursting and tearing and withstand handling, storage, transfer, or transportation without impairing the integrity of the container.

(5) Containers must be sealed and closed tightly and securely when full by weight or volume, or when putrescent, to prevent any discharge of the contents at any time until the container enters the treatment system.

I(6) remains the same; revise I(7), (8), (9) and (10) as indicated; I(11) remains the same; revise I(12):

(7) Roll-off containers, trailer bodies, or other vehicle containment areas cannot be used as rigid containment.

116 FINAL REGULATIONS

(8) Infectious waste must be contained in containers that are appropriate for the type and quantity of waste and must be compatible with selected storage, transportation, and treatment processes.

(9) Reusable or disposable containers are acceptable. Reusable containers must be properly disinfected after each use as outlined in Section L of this regulation.

(10) Compaction of waste by any means shall be prevented prior to entering the containment of the treatment process.

(12) When infectious waste is treated by a technology which does not change the appearance of the bag or outer container, immediately after treatment it shall be clearly labeled with the word "Treated" and the date of treatment on the outside of the container to indicate that the waste was properly treated. This labeling method may be hand written, an indicator tape or chemical reaction. The labeling process shall be water-resistant and indelible.

J. Labeling of Containers.

Revise J(1) to read:

(1) Generators and transporters must assure that once sealed, containers of infectious waste are properly labeled in English as outlined below.

Revise J(2)(a) and (b); delete J(2)(c) and (f); renumber (2)(d) and (e) to (2)(c) and (d); revise new J(2)(c) and (d) as indicated:

- (a) the universal biohazard symbol sign;
- (b) the Department issued number of the in-state generator;
- (c) a labeling process which is water-resistant and indelible; and
- (d) the date the container was placed in storage or sent offsite, if not stored.

Revise J(3) to read:

(3) Each bag used to line the inside of an outer container shall be labeled with indelible ink or imprinted as outlined in (a) and (c) immediately above.

K. Storage of Infectious Waste.

Revise K(1) introductory paragraph; sub items K(1)(a), (b), and (c) remain the same:

(1) Storage shall be in a manner and location which affords protection from animals, vectors, weather conditions, theft, vandalism and which minimizes exposure to the public. Storage begins at the time the container is sealed.

Revise K(2); K(3) remains the same; revise K(4); delete K(5)(d); K(5) introductory paragraph and (5)(a)-(c) remain the same:

(2) Outdoor storage areas must be locked (for example: roll-off containers, sheds, trailers, van bodies, or any other storage area).

(4) Storage areas must be labeled with the universal biohazard symbol sign.

M. Manifest Form Requirements for Generators.

This section has been substantially revised.

Revise M(1) language. M(1)(a) through (m) have been reorganized and renumbered. Separate M(1)(a) into M(1)(a), (b) and (c). Separate the old (c) into two sections with the first section (e) requesting the number of containers of waste and the second section (f) designating the weight of the waste. Delete old (d). Old (e), (f), (g) and (h) are renumbered. Delete old (i). Renumber old (j) and (k). Delete old (l) and (m). Revise the old (g), (j), and (k).

(1) A generator who transports, or offers for transport, infectious waste for offsite treatment, storage, or disposal, must prepare a manifest using DHEC Form 2116 or another Department approved form and filled out in a legible manner according to the instructions for that form. The manifest form must accompany the waste at all times after leaving the generator's facility. The manifest form will include, but is not limited to:

- (a) the name of the generator;
- (b) the Department identification number (if applicable);
- (c) the address of the site where the waste was generated;
- (d) a general description of the nature of the waste being shipped;
- (e) the number of containers of waste;
- (f) the weight or volume (accurate to within ten (10) percent);
- (g) a certification by the generator stating "This is to certify that the above-named materials are properly classified, described, packaged, marked and labeled, and are in proper condition for transportation according to the applicable regulations of the Department of Transportation";
- (h) a certification by the generator that the shipment does not contain regulated quantities of hazardous waste as defined by the S.C. Hazardous Waste Management Regulations;
- (i) a certification by the generator that the shipment does not contain radioactive material or waste above levels determined in Section F(6)(d) of this Regulation;
- (j) the name of the transporter who receives the waste from the generator or subsequent transporter and that transporter's Department issued transporter registration number;
- (k) the date the transporter accepted the shipment;
- (l) the date the treatment facility accepted the shipment onsite;

Revise language in M(2); revise reference in M(3); revise language in M(4); delete M(5):

(2) The generator who offers regulated infectious waste for transport offsite shall ensure a manifest is initiated as required in (1) above.

(3) This generator shall sign by hand or other legally defensible signature where required in (1)(g), (h), and (i).

(4) The generator shall retain one copy of the manifest after the transporter has accepted the shipment.

118 FINAL REGULATIONS

N. Infectious Waste Transporter Requirements.

Revise paragraph N(6); (6)(a) and (b) remain the same; add the word “and” at the end of (6)(c) and delete (6)(d); renumber (6)(e) to (6)(d):

(6) Transporters must develop a written infectious waste management plan which must address at a minimum:

(c) handling and storage of waste; and

(d) personnel health and safety training.

Revise the first sentence of paragraph N(7); break the rest of the paragraph into (7)(a), (b) and (c) as shown:

(7) A draft of the plan required in Section N (6) must accompany the annual registration application.

(a) The plan must meet the approval of the Department or be modified so that it will meet approval.

(b) After approval by the Department, the infectious waste management plan shall become part of the registration and must be adhered to by the registrant.

(c) Changes in this plan must be made by submittal of a written request to the Department which may approve or deny such request.

Revise paragraph N(9) to read:

(9) It is unlawful for any person to discharge infectious waste or treatment residue into the environment of this State except as permitted by the Department. If a release of infectious waste or treatment residue to the environment is known or suspected, the facility must report to the Department within twenty-four (24) hours and immediately investigate and confirm all suspected releases. Action may then be required by local, state, or federal officials so that the infectious waste or treatment residue discharge no longer presents an actual or potential hazard to human health or the environment.

Revise paragraph N(11) to read:

(11) Transport vehicles containing infectious waste must be managed to prevent access by unauthorized persons.

O. Transporter Registration Requirements.

Reorganize paragraphs O(1)(a)-(c) as indicated; delete subparagraphs (c)(i)-(iii); revise O(d); add new paragraphs (e), (f) and (f)(i) - (iii); add new (g):

(a) the transporter's name;

(b) the transporter's mailing address;

(c) the name for each intermediate handling facility, transfer facility, or transportation related site that the transporter will operate at in South Carolina;

(d) the address for each intermediate handling facility, transfer facility, or transportation related site that the transporter will operate at in South Carolina;

(e) the telephone number for each intermediate handling facility, transfer facility, or transportation related site that the transporter will operate at in South Carolina;

(f) proof of financial responsibility for sudden and accidental occurrences in the amount of at least one million dollars (\$1,000,000) per occurrence exclusive of legal defense costs. This financial responsibility may be established by any one or a combination of the following:

(i) evidence of liability insurance, either on a claim made or an occurrence basis, with or without the deductible, with the deductible, if any, to be on a per occurrence or per accident basis and not to exceed ten (10) percent of the equity of the registrant;

(ii) self insurance, the level of which shall not exceed ten (10) percent of equity of the registrant as evidenced by submission of financial information as required by the Department; or

(iii) other evidence of financial responsibility approved by the Department; and

(g) this statement signed by hand by the owner or his authorized agent: "I certify, under penalty of criminal and/or civil prosecution for making or submission of false statements, representations, or omissions, that I have read, understand, and will comply with the South Carolina Infectious Waste Management Regulation R.61-105."

Revise O(2) introductory paragraph; (2)(a), (b) and (c) remain the same:

(2) No person shall engage or continue to engage in transportation of infectious waste (except as outlined in Section N(2)) in South Carolina unless they register annually with the Department as an infectious waste transporter, and pay applicable fees as outlined in Section DD.

Revise O(3) to read:

(3) The financial responsibility required in section O(1)(f) above must be maintained. If any change occurs in a registered transporter's financial responsibility, he must cease to transport infectious waste and notify the Department immediately to determine when and how transportation may be resumed.

Revise section O(6) to read:

(6) Transporters which neither pick up infectious waste nor deliver infectious waste within this state are exempt from registration. Transporters who only transport into or within this state regulated infectious waste packaged in accordance with United States Postal Service Domestic Mail Manual infectious waste packaging requirements are also exempt from registration.

Q. Transport Vehicle Requirements.

Revise Q(1)(a). Q(1)(b), (c), (d), (e) and (f) remain the same.

(1) Each vehicle used to transport infectious waste must meet at a minimum these requirements:

(a) the vehicle shall have a fully enclosed, leak resistant cargo-carrying body which protects the waste from animals, vectors, weather conditions, and minimizes exposure to the public;

Revise Q(1)(g)(i). Q(1)(g) introductory, Q(1)(g)(ii) and (iii) remain the same.

(1)(g) identification must be permanently affixed to the cargo-carrying body on two sides and the back in letters a minimum of three (3) inches in height which state:

120 FINAL REGULATIONS

- (i) the registered name of the transporter;
- (ii) the transporter's Department issued registration number; and
- (iii) the words INFECTIOUS WASTE, MEDICAL WASTE, or BIOHAZARDOUS WASTE .

Add Q(1)(h) to read:

(h) the biohazard symbol sign must be permanently affixed to the cargo-carrying body on two sides and the front and back.

Revise Q(2) to read:

(2) If a transporter transports or stores infectious waste and other solid waste in the same cargo-carrying body, each waste must be managed as infectious waste unless the waste is subject to Section (E)(2)(a-c).

R. Manifest Requirements for Transporters.

R(2)(a) remains the same; delete (2)(b); renumber (2)(c) as (2)(b) and revise new (2)(b) as shown:

- (b) return a copy of the manifest form to the generator before leaving the site.

Delete R(5)(a); renumber (5)(b) and (c) as (5)(a) and (b); revise new (5)(a):

- (a) retain a copy of the completed manifest for his records; and
- (b) turn the remaining copies of the manifest over to the treatment facility.

Revise R(6) to read:

(6) The transporter shall deliver the entire quantity represented on the manifest that he accepted from the generator or another transporter to another transporter or a destination facility.

Delete R(7), delete old R(8)(b); renumber old R(8) as R(7); revise new R(7)(a); renumber old R(8)(c) as R(7)(b):

(7) All transporters and/or management companies which list themselves as the generator on the manifest or a consolidated manifest must assume full responsibility of the generator(s) and must:

- (a) attach a copy of the completed new manifest form to the original manifest form and retain a copy of the new and original manifest form; and
- (b) maintain a transporter consolidation log indicating all shipments that have been consolidated.

S. Storage Tank Requirements.

Remove [Reserved] status in Section Title. Add new section S to read:

S. Storage Tank Requirements.

(1) Liquid treatment residue generated during the embalming process may be stored in an underground or above ground storage tank located onsite at the generating facility. Tanks in operation at the time this regulation takes effect must meet the use, monitoring, record keeping, disposal, and clean-up requirements of

this Section. Tanks installed after the date this regulation becomes effective must meet all requirements of these regulations.

(2) Storage tanks must meet the following conditions:

(a) A facility must notify the Department in writing before installing a tank to be used for storage of treatment residue. Notification should include facility name and address, number of tanks, and storage capacity;

(b) Tank materials of construction must be compatible with treatment residue to be stored;

(c) Tank must be installed and maintained in accordance with manufacturer's instructions;

(d) When treatment residue is removed from the tank, it must be pumped by a person licensed by the Department for the cleaning of disposal systems and sent directly to a regulated facility for further treatment or disposal;

(e) Tank must be monitored following pump events and with a frequency sufficient to demonstrate it is not leaking. Monitoring may be performed utilizing a dipstick, however monitoring must be performed when tank contents are sufficiently settled;

(f) The facility generating waste that is treated and stored in the tank must maintain a record of tank monitoring and pump events;

(g) Tank must be used exclusively for treatment residue storage; and

(h) Tank and records must meet all applicable state and federal requirements, including Industrial Wastewater and Disposal System Clean-out requirements.

(3) The Department may require the generating facility to clean up any treatment residue discharge that occurs during storage or take such action as may be required by state, federal, or local officials so that the treatment residue discharge no longer presents a potential hazard to human health or the environment.

T. Infectious Waste Treatment.

Revise section T(1) introduction to read:

(1) Infectious waste must be treated prior to disposal except as indicated in Section G. After approved and adequate treatment, treatment residue must be disposed of in accordance with state and federal solid waste requirements. Any unused treatment media must be characterized, handled, and disposed of in accordance with applicable regulations.

T(2) introduction and (2)(a) and (b) remain the same; revise (T)(2)(c) and (d) as shown; renumber old (2)(d) as (e):

(2)(c) chemical disinfection;

(d) embalming fluid containing at least two (2) percent formaldehyde; or

(e) any other Department approved treatment method.

122 FINAL REGULATIONS

T(3) remains the same; delete T(4); renumber old T(5) and (6) as T(4) and (5); old T(5)(a) and (b) remain the same:

(4) The following infectious waste may be disposed of before treatment:

(5) Storage of infectious waste prior to treatment must be in accordance with Section K of this regulation.

Revise T(7), (8), (9) and (10) as shown and renumber as T(6) through T(9):

(6) It is unlawful for any person to discharge infectious waste or treatment residue into the environment of this State except as permitted by the Department. If a release of infectious waste or treatment residue to the environment is known or suspected, the facility must report to the Department within twenty-four (24) hours and immediately investigate and confirm all suspected releases. Action may then be required by local, state, or federal officials so that the infectious waste or treatment residue discharge no longer presents an actual or potential hazard to human health or the environment.

(7) Facilities that only treat liquid embalming waste with at least a two (2) percent formaldehyde solution and small quantity generators that treat, by an approved method onsite, infectious waste which they generate onsite are not required to be permitted as a treatment facility.

(8) Treatment of infectious waste must be monitored by use of biological indicators or laboratory culture of the treatment residue to ensure that pathogens have been adequately treated. Frequency of this testing shall be determined by the Department on a case-by-case basis or as outlined in this regulation.

(9) Products of conception must be incinerated, cremated, interred, or donated for medical research.

U. Infectious Waste Treatment Facility Standards.

Revise U(1), U(7)(e), U(8), U(10)(a), U(10)(e), and U(13)(a) to read:

(1) No person may operate an infectious waste treatment or disposal facility or generator facility without first obtaining a permit as required by this regulation except as exempted in section T. A separate permit shall be required for each site or facility although the Department may include one or more different types of facilities in a single permit if the facilities are collocated on the same site.

(7)(e) It is unlawful for any person to discharge infectious waste or treatment residue into the environment of this State except as permitted by the Department. If a release of infectious waste or treatment residue to the environment is known or suspected, the facility must report to the Department within twenty-four (24) hours and immediately investigate and confirm all suspected releases. Action may then be required by local, state, or federal officials so that the infectious waste or treatment residue discharge no longer presents an actual or potential hazard to human health or the environment.

(8) All individuals involved with handling and management of waste shall receive thorough training in their responsibilities and duties. A training protocol shall be submitted to the Department at the time of application for a permit. Training documentation for individuals shall be submitted to the Department within thirty (30) days of completion.

(10)(a) use instrumentation which is approved by the Department for this purpose;

(10)(e) report any and all incidents when radioactive materials are detected to the Department for guidance in dealing with the radioactive materials. The Department may allow a treatment facility to hold containers of waste containing radioactive material for radioactive decay after the facility has submitted procedures for appropriately managing the containers and has received approval from the Department. However, under no circumstance may a treatment facility solicit the receipt of radioactive material.

(13)(a) provide complete combustion of the waste and packaging to carbonized or mineralized ash;

V. Intermediate Handling Facilities Standards.

**Insert the following as paragraph V(1). Renumber the old V(1) through V(8) as V(2) through V(9).
Revise new paragraph V(5)(e):**

(1) No person may operate an infectious waste intermediate handling facility without first obtaining a permit as required by this regulation. A separate permit shall be required for each site or facility although the Department may include one or more different types of facilities in a single permit if the facilities are co-located on the same site.

(2) All intermediate handling facilities must develop and submit to the Department for approval a standard operating procedure manual which will include at a minimum:

(3) Approval for acceptance of infectious waste at an intermediate handling facility may be withdrawn by the Department for noncompliance with the standard operating procedure manual.

(4) When a facility ceases infectious waste management activities, it shall notify the Department in writing, immediately, and it shall thoroughly clean and disinfect the facility and all equipment used in the handling of infectious waste. All untreated waste shall be disposed of in accordance with the requirements of this regulation.

(5) In the event of an accidental spill of infectious waste, the designated personnel at the facility shall:

(e) It is unlawful for any person to discharge infectious waste or treatment residue into the environment of this State except as permitted by the Department. If a release of infectious waste or treatment residue to the environment is known or suspected, the facility must report to the Department within twenty-four (24) hours and immediately investigate and confirm all suspected releases. Action may then be required by local, state, or federal officials so that the infectious waste or treatment residue discharge no longer presents an actual or potential hazard to human health or the environment.

(6) All individuals involved with handling and management of waste shall receive thorough training in their responsibilities and duties. A training protocol shall be submitted to the Department at the time of application for a permit. Training documentation for employees shall be submitted to the Department within thirty (30) days of completion.

(7) Permittee shall notify the Department in writing within thirty (30) days prior to any changes in ownership, operating control, name, or location. The Department may upon written request transfer a permit to a new owner or operator where no other change in the permit is necessary provided that a written agreement containing a specific date for transfer of permit responsibility and financial assurance between the current and new owner has been submitted to the Department.

(8) Facilities shall schedule shipments of waste to prevent a backlog of loaded transportation vehicles at the facility or offsite. The number of loaded and unloaded transport vehicles stored onsite will be controlled by permit conditions.

124 FINAL REGULATIONS

(9) A facility receiving waste generated offsite must log-in transport vehicles as they arrive at the facility in a bound log book and note in this book if any shipments are rejected. The intermediate handling facility must:

- (a) disinfect the cargo-carrying compartment(s) immediately after unloading the waste; and
- (b) clean out visible debris and immediately put debris into the treatment system.

X. Permit By Rule.

Revise X(1) and X(3) as shown; X(2) remains the same:

(1) All infectious waste generators which comply with the conditions of (2) below shall be deemed to have a permit by rule.

(3) All infectious waste generators who treat infectious waste and are not exempted in Section T and not meeting the requirements of (2) above shall apply for an infectious waste treatment permit as outlined in Section W.

Y. Manifest Form Requirements For Permitted Treatment Facilities.

Delete Y(2)(a); renumber Y(2)(b) and (c) as (a) and (b); revise new (b) as shown. Delete Y(2)(d)-(g); revise old Y(2)(h) as shown and renumber as Y(2)(c):

(2) The owner or operator or his authorized agent of a treatment facility when accepting a manifested shipment shall:

- (a) write on the manifest the number of containers accepted and the total weight;
- (b) note any discrepancies greater than ten (10) percent of the container count on the manifest; and
- (c) retain a copy of the completed manifest form for two (2) years.

Delete Y(3) and renumber old Y(4) and Y(5) as (3) and (4); Y(5)(a)-(g) remain the same:

(3) When any variation in piece count greater than one (1) percent or in weight greater than ten (10) percent is discovered, the owner or operator shall attempt to resolve the discrepancy with the waste generator or the transporter. If the discrepancy is not resolved, the owner or operator shall submit a letter to the Department, within five (5) days, of receipt of the waste, describing the nature of the discrepancy and the attempts the owner or operator has undertaken to reconcile it. The owner or operator shall include with this letter a legible copy of the manifest in question.

(4) If a facility receives any infectious waste from offsite which is not accompanied by a manifest, or which is accompanied by a manifest which is incorrect, incomplete, or not signed, the owner/operator must prepare and submit to the Department a written copy of a report within fifteen (15) days after receiving the waste. The "Unmanifested Waste Report" must include the following information:

AA. Record Keeping.

Revise title to Part AA to read:

AA. Inspections and Record Keeping.

Add new AA(1); renumber and revise old AA(1) and (2) as AA (2) and (3); add new AA(4):

(1) Department representatives are authorized to enter and inspect any property or premises for the purpose of ascertaining compliance or noncompliance with this regulation.

(2) All generators, transporters, transfer facilities, intermediate handling facilities and treatment facilities handling infectious waste generated, treated, transported, or otherwise managed in the State shall maintain all records and manifest copies required by this regulation for a minimum of two (2) years in a location within South Carolina easily accessible to the Department during regular business hours and shall provide these records to the Department upon request. Records may be maintained in paper form or electronically.

(3) If the waste is no longer infectious because of treatment, the generator or permitted facility shall maintain a record of the treatment for two (2) years afterward to include the date and type of treatment, amount of waste treated, and the individual operating the treatment. Records for onsite treatment shall be maintained by the generator for a minimum of two (2) years in a location easily accessible to the Department and shall be provided to the Department upon request. Records may be maintained in paper form or electronically.

(4) If the waste is no longer infectious because of treatment, and the treatment residue is stored onsite in a tank, the generator shall maintain a record of monitoring and pump events for two (2) years afterward to include the date and type of monitoring, who conducted the monitoring, date and amount of waste pumped, and the name of the business or person that provided the pumping service. Pump event data may be in the form of a manifest or log. Records shall be maintained by the generator for a minimum of two (2) years in a location within South Carolina easily accessible to the Department and shall be provided to the Department upon request. Records may be maintained in paper form or electronically.

BB. Enforcement.

Delete BB(3):

Add new section “EE. Appeals”; add new paragraph EE(1) and (2) to add provisions pursuant to Act 387 (2006) at SC. Section 44-1-60:

EE. Appeals.

(EE)(1) A Department decision involving the issuance, denial, renewal, suspension, or revocation of a permit, license, certificate, or certification may be appealed by an affected person with standing pursuant to applicable law, including S.C. Code Title 44, Chapter 1 and Title 1, Chapter 23.

(2) Any person to whom an order is issued may appeal pursuant to applicable law, including S.C. Code Title 44, Chapter 1 and Title 1, Chapter 23.

Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness complies with S. C. Code Ann. Sections 1-23-115(C)(1)-(3) and (9)-(11) and 1-23-110(3)(h).

DESCRIPTION OF REGULATION: Proposed amendment of R.61-105 Infectious Waste Management Regulations.

126 FINAL REGULATIONS

Purpose: The Department of Health and Environmental Control has amended Regulation 61-105 to include the handling of embalming waste as a regulated infectious waste, provide requirements for the use of formaldehyde as a disinfectant for bodily fluids during the embalming process, provide a method for the inspection, approval and use of holding tanks to hold the treatment residue created by the disinfection of bodily fluids with formaldehyde, and to clarify points in the Regulations for the regulated community. The proposed amendments would add or clarify definitions. Allowances for alternate recordkeeping and communication would be developed for generators and transporters in regards to weight, biohazard marking, and manifesting. Duplicated or outdated requirements would be deleted. New requirements would be added for situations that could create a public health risk that have not been addressed in the past. Clarifications would be made to the Regulation to address the handling and treatment of regulated infectious waste by generators and transporters. In response to comments, adjustments will be made to bring state transportation requirements in line with US Department of Transportation (DOT) requirements. Requirements for those utilizing the United States Postal Service to transport regulated infectious waste will be clarified. Generator registration and fee requirements will be revised and facilities that close will be required to notify the Program.

This revision will also create an appeals section of R.61-105 to comply with statutory changes in the Administrative Appeals process pursuant to S.C. Code Section 44-1-60 (2006 S.C. Act 387).

Legal Authority: South Carolina Infectious Waste Management Act, S.C. Code Sections 44-93-10 *et seq.* and 44-1-60.

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

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

This amendment is necessary and reasonable because it would update and clarify the Infectious Waste Management Regulation to protect public health and the environment in areas that are not currently addressed.

The changes are necessary to add new amendments that would require the embalming process to be handled as a potential source of regulated infectious waste and to set storage and treatment standards for this waste and its residue that currently is not regulated under R.61-105. The revision is needed to include requirements to protect against potential hazards from leaking embalming fluid from tanks and to establish the proper procedures for storing and transporting these materials.

There are five potential methods for disposal of this treatment residue. The residue can be sent directly to a sanitary sewer for disposal at a regulated wastewater treatment facility or sent to an existing septic tank for bacterial decomposition and groundwater dispersal. The residue can be solidified and sent to a regulated solid waste landfill, or incinerated. The residue can be stored in a tank and then pumped out for further treatment and/or disposal.

The EPA has determined that it is not possible to meet the EPA Health Advisory Limit for formaldehyde utilizing a conventional septic system. Therefore, the Department will not issue any new septic tank permits to funeral homes for this embalming waste treatment residue. Facilities that do not have access to municipal wastewater systems must then apply to the Bureau of Water for a holding tank permit. However, facilities that are rural and do not have access to municipal wastewater systems are often small and do not have a large enough volume of waste to be regulated under the Standards for Wastewater Facility Construction regulations. As this waste could still be a risk to public health and the environment, the amendment to this Regulation would provide requirements for these generators to prevent such risk.

This amendment would provide a method for the approval, monitoring, and use of holding tanks to hold the treatment residue created by the disinfection of bodily fluids with formaldehyde. These amendments would apply to all storage tanks for embalming treatment residue installed after the amendments take effect. Tanks that have been installed prior to the time the amendments take effect would only have to meet certain of the requirements; they must meet the use, monitoring, record keeping, and disposal requirements. If discharge occurs, the generating facility may be required to clean up this discharge or take other action so that the discharge no longer presents a potential hazard to human health or the environment. Tanks with high pump-out frequency, or previously permitted septic tanks, would be subject to regulation by other Programs in the Department or on the federal level. Tanks would need to be pumped at a rate of greater than fifty (50) gallons per day or three hundred and fifty (350) gallons per week or one thousand five hundred (1500) gallons per month to be regulated by other parts of the Department as well as the Infectious Waste Program. Previously permitted septic tanks that contain embalming waste are regulated under R.61-56, Onsite Wastewater Systems or R.61-87, Underground Injection Control Regulations and would not be additionally regulated by these amendments.

Amendments would provide an exemption from treatment facility permitting requirements for facilities when the treatment of infectious waste is only related to the embalming process and is performed for the purposes of meeting this standard. The definitions of "Pump Event" and "Treatment Residue" are added to support these requirements.

Allowances for alternate record keeping and communication would make the requirements less burdensome for generators and transporters in regards to weighing waste, biohazard marking, and manifesting. Duplicated requirements would be eliminated. The requirement for radiological monitoring by transporters would be eliminated as well as the requirement for continual refrigeration for generators, transporters, intermediate handling facility operators, and transfer facility operators. The definitions of "Generator registration status," "Manifest," "Site," and "Small Quantity Generator" are added or revised to support these requirements. The definitions of "Storage" and "Universal Biohazard Symbol" are revised for clarification.

These amendments will prevent situations that could create a public health risk that have not been addressed in the past, including a requirement that unattended vehicles carrying infectious waste must prevent access by unauthorized personnel and amendments will provide for regulating the storage and disposal of infectious waste treatment residue. Additionally, clarifications are necessary to address the handling and treatment of sharps containers by small quantity generators.

Revision of the appeal provisions is necessary pursuant to State Law (Act 387 of 2006).

DETERMINATION OF COSTS AND BENEFITS:

Costs to the State or Political Subdivisions:

There will be no increased costs to the state and its political subdivisions associated with the implementation of these amendments. The changes in the Regulation affect operational procedures by regulated facilities and will protect public health and the environment. Some of the changes in the Regulation stem from Department interpretation of the Regulations and incorporating them into Regulation gives the Department the authority to enforce the requirements. The Regulation provides guidelines for the installation and monitoring of holding tanks for the residue resulting from embalming. This may require an insignificant increase in time spent by Department staff, but will provide direction to the regulated community in dealing with embalming waste treatment residue, which the regulated community has requested.

Generating facilities would be required to notify the Department when they close their businesses or stop generating infectious waste so that the Department would not waste resources attempting to contact facilities that have closed.

128 FINAL REGULATIONS

Costs to the Regulated Community:

Facilities that have chosen to delay the closing of containers prior to transport to defray costs could see an increase in their pick-up frequency. Depending on their financial arrangements with their transporters, this could increase costs. It has been the Department's interpretation of the Regulations that once a container is full of waste, it should be closed for storage. Language supporting this interpretation would now be part of the Regulations.

The costs to facilities with existing tanks used to store embalming waste treatment residue could be as low as \$20 per facility for a monitor to measure the liquid in the tank. The monitor would aid in the detection of leaks that could potentially result in contamination of the environment. There are potential costs to the facilities for clean-up if contamination of any sort is detected. The facilities will also be responsible for a minimum level of processing required for treatment residue wastes. The treatment media itself, if unused, must be properly characterized, handled and disposed of. If facilities were not already handling treatment media properly, facilities may incur additional costs.

Due to the proposed requirement for labeling trucks with the biohazard symbol sign, if trucks were not already labeled, transporters may incur a small cost associated with purchasing and applying these labels.

There would be a savings to generators, transporters, intermediate handling facility operators, and transfer facility operators who would no longer have to refrigerate waste just because it was refrigerated at the generating facility or by the most recent handler. Transporters would no longer have to perform radiological monitoring, since treatment facilities are required to perform such monitoring and generating facilities are required to prevent radioactive waste from leaving the generating site. Overall, the changes would provide for greater protection of the environment and public health with very little increase in cost to businesses. This may result in some cost savings for some facilities.

UNCERTAINTIES OF ESTIMATES:

No known uncertainties.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The overall effect of these amendments is expected to be beneficial to the public health and environment by requiring monitoring of treatment residue from the embalming process that is no longer infectious by proposed regulatory definition but may contain formaldehyde, a potentially hazardous chemical.

If this waste is to be stored in a holding tank, the tank must be compatible with the material being stored, installed according to the manufacturer's instructions, at the same location as the generating facility, and must be used to store only treatment residue generated onsite. The tank must be monitored to be sure that it is not leaking.

Records must be retained for monitoring and pump events. If any contamination is suspected or confirmed, the Department must be notified and the generating facility is responsible for clean up.

There will now also be a minimum level of treatment required for liquid embalming waste, preventing human health risks. The treatment media itself, if unused, must be properly characterized, handled, and disposed of.

The Regulation changes should also benefit public health by tightening control over storage of regulated infectious waste at generating facilities. The requirement that transporters must prevent unauthorized access to transport vehicles will help prevent risks to the public.

The amendment to update the regulatory appeal procedure is necessary to comply with the statutory changes in administrative law.

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

If these amendments are not implemented, any facility that generates only liquid waste during the embalming process will not be regulated, and some potential embalming waste storage and disposal practices may place the environment and public health at risk. Also, the risk to the public from transport vehicles carrying regulated infectious waste left unattended will continue.

Statement of Rationale:

A review of program regulatory interpretations, questions from the regulated community, and new issues brought to the attention of the Department led staff to propose revisions to this Regulation. These amendments will provide greater protections for the public, relieve undue stresses placed on the regulated community, and clarify and strengthen regulatory interpretations of the Program by placing them in the Regulation.

Document No. 4108
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Section 44-7-250

61-84. Standards for Licensing Community Residential Care Facilities

Synopsis:

South Carolina Code Ann. Section 1-23-120 directs that staff of State agencies review their regulations every five years and update them if necessary. Regulation 61-84, Standards for Licensing Community Residential Care Facilities, was published in the *State Register* on May 23, 1986, May 24, 1991, and was subsequently revised and published in the *State Register* on July 27, 2001. Since that time there has been changes in applicable laws, *e.g.*, criminal record checks of direct care staff, and there have been certain guidelines, directives, interpretations, and changes in Division policy that have led to the necessity to amend these regulations in order to make them more up-to-date.

A Notice of Drafting for this amendment of R.61-84 was published in the *State Register* on May 22, 2009.

**Changes made to the proposed regulation during legislative review as requested by
the Senate Medical Affairs Committee by its letter dated March 23, 2010:**

Section 103.J Licensing Fees, was revised to remove fee increases and additional fees, and return to the existing text in Regulation 61-84. The Statement of Need and Reasonableness, the Fiscal Impact Statement and the Determination of Costs and Benefits were revised to remove information related to fee increases and additional fees.

**DHEC's Section-by-Section Discussion of Revisions
as submitted to the General Assembly on January 28, 2010:**

TABLE OF CONTENTS:

The table has been updated and is being replaced in entirety with classifications and punctuation added for consistency with the text of the regulation.

130 FINAL REGULATIONS

BODY OF DOCUMENT:

Section 100 includes definitions and references:

- 101.F. – This proposed subsection added and defines “Airborne Infection Isolation”.
- 101.H. – This subsection defines “Annual” and is revised from “once every 365 days” to “at least every twelve to thirteen (12 to 13) months.”
- 101.L. – This proposed subsection added and defines “Blood Assay for *Mycobacterium tuberculosis* (BAMT)”.
- 101.O. – This proposed subsection added and defines “Contact Investigation”.
- 101.BB. – This proposed subsection added and defines “Incident”.
- 101.GG. – This proposed subsection added and defines “Latent TB Infection (LTBI)”.
- 101.HH. – This subsection defines “Legend Drug” and is revised for wording clarity.
- 101.LL. – This subsection defines “Local Transportation” and is revised to include “as addressed by the resident written agreement” and deletes the term “and needs.”
- 101.PP. – This subsection defines “Peak Hours” and is revised to include a requirement for reporting facility peak hours to the Department.
- 101.WW. – This proposed subsection added and defines “Private Sitter”.
- 101.YY. – This proposed subsection added and defines “Quarterly”.
- 101.III. – This proposed subsection added and defines “Risk Assessment”.

Section 102. References:

- 102.B.16. – This proposed subsection added a reference for “Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health Care Settings” (2005).

Section 103. License Requirements:

- 103.B. – This subsection is revised for wording clarity.
- 103.D. – This subsection is deleted.
- 103.F. – This subsection is revised to clarify who may or may not occupy resident rooms, other bedrooms within the facility or resident recreational or dining areas.
- 103.I. – This subsection is revised to clarify the requirements for submitting an application for license.
- 103.K. – This subsection is deleted.
- 103.J. – This subsection is revised to address a licensing fee increase from \$10 per licensed bed to an incremental change from \$15 to \$20 per licensed bed over a three year period. In addition, the subsection is revised to address an initial license fee of \$500 for proposed facilities with 16 or more beds and \$250 for proposed facilities with less than 16 beds. Also, in instances where facilities are adding licensed beds, the subsection addresses an initial proposed license bed increase fee of \$500 for proposed facilities with 16 or more beds and \$250 for proposed facilities with less than 16 beds.

Section 200. Enforcing Regulations:

- 202.E. – This subsection is revised to address the posting of inspection reports.

Section 302. Violation Classifications:

- 302.E. – This subsection is revised to address factors that may result in enforcement actions.
- 302.F. – This subsection is revised and adjusted for consistency with S.C. state statute.
- 302.G. – This subsection addresses Departmental decisions regarding enforcement actions and the appeal process available to affected parties. Also clarification for code of applicable laws.

Section 400. Policies and Procedures:

401.A. – This subsection requires facility policies and procedures to be written.

Section 500. Staff/Training:

501.B. – This subsection addresses the employment requirement for direct care staff/direct care volunteers to include a criminal record check in accordance with applicable law, as amended. This also addresses criminal background checks for contracted private sitters.

502.A. – This subsection addresses the applicable code of laws requiring an administrator to be licensed.

503.B. – This subsection is revised to clarify that direct care duties include “supervision” of residents.

504.A. – This introductory only subsection is revised to update staff and private sitter training requirements and requires documentation of the training.

504.B. – This subsection addresses the designation and training of staff responsible for resident recreational activities and requires documentation of the training.

506. – This proposed section is added to address contractual requirements for private sitters, including, but not limited to, policy and procedure requirements; the requirement to check for prior convictions pursuant to Section 501.B.; orientation to the facility; health assessment and determination of TB status; and exclusion from minimum staffing requirements of Section 503.A.

Section 601. Incidents/Accidents – Subsection title revised.

601.A-I. – This subsection is revised and addresses changes in incident reporting to the Department and updates examples of incidents to be included in a report as well as the statutory requirement to report resident abuse to the South Carolina Long Term Care Ombudsman Program.

Section 604. Administrator Change:

604. – This subsection addresses reporting requirements for a change of administrator and the hours the new appointee will be working. In addition, there is a stylistic change for clarity.

Section 700. Resident Records:

701.B.6. – This subsection is revised to require daily and/or monthly notes of observation according to resident’s condition.

701.B.10. – This subsection is revised to address the conditions under which a resident photograph is updated.

702. – This subsection addresses documentation requirements for resident assessments.

Section 800. Admission/Retention:

801.B-C. – This subsection is revised to clarify the conditions under which individuals are not eligible for admission or retention in a community residential care facility and to clarify levels of violation classifications.

Section 900. Resident Care/Services:

901.A.8. – This subsection is revised to address the requirement for Resident’s Bill of Rights and grievance procedures to be documented.

902.H. – This subsection addresses the availability of resident funds quarterly reports.

Section 1000. Rights and Assurances:

1001.L. – This subsection clarifies resident freedom to use the telephone.

132 FINAL REGULATIONS

Section 1100. Resident Physical Examination and TB Screening:

1101.A. – This subsection is revised to include permitting physicians licensed in states other than South Carolina to perform the admission physical examination and to rearrange numerically the required components of the physical examination.

1101.F. – This subsection is revised for consistency and clarity with revised Section 1702.

1101.G. – This subsection is revised for consistency and clarity with revised Section 1702. In addition, there are stylistic changes for clarity.

Section 1200. Medication Management:

1201.A. – This subsection addresses the availability of medications and supplies.

1202. – This subsection title is revised to include treatment orders.

1202.A. – This subsection addresses physician orders for medications and treatments.

1202.B. – This subsection addresses the signing and dating of physician orders.

1203. – This subsection title is renamed to include treatment administration.

1203.A. – This subsection addresses the administration and documentation of treatments.

1205.B. – This subsection addresses medication containers, *i.e.*, the multi-dose system.

1206.A. – This subsection addresses the storage of refrigerated medications and adds the requirement for thermometers in medication storage refrigerators.

1206.C. – This subsection addresses control and accountability of controlled medications.

Section 1300. Meal Service:

1306.A. – This subsection addresses menu planning and documentation requirements; adds the requirement that all special diet menus be signed and dated by a dietitian, physician or other authorized healthcare provider.

1309.A. – This subsection addresses the use of alcohol-based waterless hand sanitizers.

Section 1400. Emergency Procedures/Disaster Preparedness:

1401.B.1.c. – This subsection revises the sheltering plan requirement for Berkeley and Dorchester counties.

1403. – This subsection is revised to require that the continuity of essential services plan be written.

Section 1500. Fire Prevention:

1503.C. – This subsection revises the fire response training requirement for residents to assist other residents in case of fire.

Section 1700. Infection Control and Environment:

1702.A-D. – This subsection is revised to address the requirement for a facility to conduct an annual tuberculosis risk assessment to determine the facility's risk classification; updates the requirement for staff/volunteer/private sitter and resident tuberculosis screening in accordance with the 2005 CDC guidelines. Proposed items added include the use of alternative tuberculosis screening elements, the BAMT. This subsection also addresses resident isolation requirements that include reference to an Airborne Infection Isolation room as required by the CDC if the resident with contagious pulmonary tuberculosis remains in the facility.

1705.A. – This subsection addresses health screening requirements for pets prior to resident contact. The change was proposed in error to occur at 1705.B in the *State Register* Notice of Drafting, but will occur at 1705.A. and the change, as proposed, was not altered; only the section where placed.

Section 2200. Fire Protection Equipment and Systems:

2201.D. – This subsection addresses fire extinguishers located in the kitchen.

2207.D. – This subsection deletes portable partitions from the furnishings/equipment that must be in accordance with NFPA 701, Standard Methods of Fire Tests for Flame-Resistant Textiles and Films. In addition, there is a stylistic change for clarity.

2207.E. – This proposed subsection item is added to address designated smoking/non-smoking areas of the facility.

2207.F. – The change was proposed in error and is not included in the text as the fire code addresses areas where signage is required.

Section 2700. Physical Plant:

2702.J. – This subsection revises the requirement for mirrors in resident rooms. In addition, there is a stylistic change for clarity.

2704.D. – This subsection addresses the communal use of bar soap in resident bathing areas. In addition, there is a stylistic change for clarity.

2715.A. – This subsection addresses fixed line telephone service. In addition, there is a stylistic change for clarity.

2717.A. – This subsection is revised to delete examples of outdoor areas routinely used by residents where unsafe physical hazards exist.

Instructions:

Amend Regulation 61-84, Standards for Licensing Community Residential Care Facilities, pursuant to each individual instruction provided below with the text of the amendments.

Text:

The following sections have been added, deleted, or revised. All other sections of R.61-84 will remain.

Table of Contents:

The table has been updated and is being replaced in entirety with classifications and punctuation added for consistency with the text of the regulation.

Replace Table of Contents to read:

Table of Contents

SECTION 100 - DEFINITIONS AND LICENSE REQUIREMENTS

101. Definitions.

102. References.

103. License Requirements (II).

SECTION 200 - ENFORCING REGULATIONS

201. General.

202. Inspections/Investigations.

203. Consultations.

SECTION 300 - ENFORCEMENT ACTIONS

301. General.

302. Violation Classifications.

SECTION 400 - POLICIES AND PROCEDURES

401. General (II).

SECTION 500 - STAFF/TRAINING

134 FINAL REGULATIONS

- 501. General (II).
- 502. Administrator (II).
- 503. Staffing (I).
- 504. Inservice Training (II).
- 505. Health Status (I).
- 506. Private Sitters (II).

SECTION 600 - REPORTING

- 601. Incidents.
- 602. Fire/Disasters (II).
- 603. Communicable Diseases and Animal Bites (I).
- 604. Administrator Change.
- 605. Accounting of Controlled Substances (II).
- 606. Emergency Placements.
- 607. Facility Closure.
- 608. Zero Census.

SECTION 700 - RESIDENT RECORDS

- 701. Content (II).
- 702. Assessment (II).
- 703. Individual Care Plan (II).
- 704. Record Maintenance.

SECTION 800 - ADMISSION/RETENTION

- 801. General (I).

SECTION 900 - RESIDENT CARE/SERVICES

- 901. General.
- 902. Fiscal Management (II).
- 903. Recreation.
- 904. Transportation (I).
- 905. Safety Precautions/Restraints (I).
- 906. Discharge/Transfer.

SECTION 1000 - RIGHTS AND ASSURANCES

- 1001. General (II).

SECTION 1100- RESIDENT PHYSICAL EXAMINATION AND TB SCREENING

- 1101. General (I).

SECTION 1200 - MEDICATION MANAGEMENT

- 1201. General (I).
- 1202. Medication and Treatment Orders (I).
- 1203. Administering Medication/Treatments (I).
- 1204. Pharmacy Services (I).
- 1205. Medication Containers (I).
- 1206. Medication Storage (I).
- 1207. Disposition of Medications (I).

SECTION 1300 - MEAL SERVICE

- 1301. General (II).
- 1302. Food and Food Storage.
- 1303. Food Equipment and Utensils (II).
- 1304. Meals and Services.
- 1305. Meal Service Personnel (II).
- 1306. Diets.
- 1307. Menus.
- 1308. Ice and Drinking Water (II).
- 1309. Equipment (II).
- 1310. Refuse Storage and Disposal (II).

SECTION 1400 - EMERGENCY PROCEDURES/DISASTER PREPAREDNESS

1401. Disaster Preparedness (II).

1402. Emergency Call Numbers.

1403. Continuity of Essential Services (II).

SECTION 1500 - FIRE PREVENTION

1501. Arrangements for Fire Department Response/Protection (I).

1502. Tests and Inspections (I).

1503. Fire Response Training (I).

1504. Fire Drills (I).

SECTION 1600 - MAINTENANCE

1601. General (II).

SECTION 1700 - INFECTION CONTROL AND ENVIRONMENT

1701. Staff Practices (I).

1702. Tuberculin Skin Testing (I).

1703. Housekeeping (II).

1704. Infectious Waste (I).

1705. Pets (II).

1706. Clean/Soiled Linen and Clothing (II).

SECTION 1800 - QUALITY IMPROVEMENT PROGRAM

1801. General (II).

SECTION 1900 - DESIGN AND CONSTRUCTION

1901. General (II).

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

1903. Construction/Systems (II).

1904. Submission of Plans and Specifications.

SECTION 2000 - GENERAL CONSTRUCTION REQUIREMENTS

2001. Height and Area Limitations (II).

2002. Fire-Resistive Rating (I).

2003. Vertical Openings (I).

2004. Wall and Partition Openings (I).

2005. Ceiling Openings (I).

2006. Firewalls (I).

2007. Floor Finishes (II).

2008. Wall Finishes (I).

2009. Curtains and Draperies (II).

SECTION 2100 - HAZARDOUS ELEMENTS OF CONSTRUCTION

2101. Furnaces and Boilers (I).

2102. Dampers (I).

SECTION 2200 - FIRE PROTECTION EQUIPMENT AND SYSTEMS

2201. Firefighting Equipment (I).

2202. Automatic Sprinkler System (I).

2203. Fire Alarms (I).

2204. Smoke Detectors (I).

2205. Flammable Liquids (I).

2206. Gases (I).

2207. Furnishings/Equipment (I).

SECTION 2300 - EXITS

2301. Number and Locations of Exits (I).

SECTION 2400 - WATER SUPPLY/HYGIENE

2401. Design and Construction (II).

2402. Disinfection of Water Lines (I).

2403. Temperature Control (I).

2404. Stop Valves.

136 FINAL REGULATIONS

2405. Cross-connections (I).

2406. Design and Construction of Wastewater Systems (I).

SECTION 2500 - ELECTRICAL

2501. General (I).

2502. Panelboards (II).

2503. Lighting.

2504. Receptacles (II).

2505. Ground Fault Protection (I).

2506. Exit Signs (I).

2507. Emergency Electric Service (I).

SECTION 2600 - HEATING, VENTILATION, AND AIR CONDITIONING

2601. General (II).

SECTION 2700 - PHYSICAL PLANT

2701. Facility Accommodations/Floor Area (II).

2702. Resident Rooms.

2703. Resident Room Floor Area.

2704. Bathrooms/Restrooms (II).

2705. Doors (II).

2706. Elevators (II).

2707. Corridors (II).

2708. Ramps (II).

2709. Landings (II).

2710. Handrails/Guardrails (II).

2711. Screens (II).

2712. Windows/Mirrors.

2713. Janitor's Closet (II).

2714. Storage Areas.

2715. Telephone Service.

2716. Location.

2717. Outdoor Area.

SECTION 2800 - SEVERABILITY

2801. General.

SECTION 2900 - GENERAL

2901. General.

SECTION 100 - DEFINITIONS AND LICENSE REQUIREMENTS

Add eight new definitions to Section 101 in alphabetical order and adjust outline; revise three existing definitions to read:

101. Definitions

F. Airborne Infection Isolation (AII). A room designed to maintain Airborne Infection Isolation, formerly called a negative pressure isolation room. An Airborne Infection Isolation room is a single-occupancy resident care room used to isolate persons with suspected or confirmed infectious tuberculosis (TB) disease. Environmental factors are controlled in Airborne Infection Isolation rooms to minimize the transmission of infectious agents that are usually spread from person-to-person by droplet nuclei associated with coughing or aerosolization of contaminated fluids. Airborne Infection Isolation rooms may provide negative pressure in the room (so that air flows under the door gap into the room), an air flow rate of six to twelve (6 to 12) air changes per hour (ACH), and direct exhaust of air from the room to the outside of the building or recirculation of air through a high efficiency particulate air (HEPA) filter.

G. Alzheimer's Special Care Unit or Program. A facility or area within a facility providing a secure, segregated special program or unit for residents with a diagnosis of probable Alzheimer's disease and/or related dementia to prevent or limit access by a resident outside the designated or separated areas, and that advertises, markets, or otherwise promotes the facility as providing specialized care/services for persons with Alzheimer's disease and/or related dementia or both.

H. Annual. A time period that requires an activity to be performed at least every twelve to thirteen (12 to 13) months.

I. Architect. An individual currently registered as such by the S.C. State Board of Architectural Examiners.

J. Assessment. A procedure for determining the nature and extent of the problem(s) and needs of a resident/potential resident to ascertain if the facility can adequately address those problems, meet those needs, and to secure information for use in the development of the individual care plan. Included in the process are an evaluation of the physical, emotional, behavioral, social, spiritual, nutritional, recreational, and, when appropriate, vocational, educational, legal status/needs of a resident/potential resident. Consideration of each resident's needs, strengths, and weaknesses shall be included in the assessment.

K. Authorized Healthcare Provider. An individual authorized by law and currently licensed in South Carolina to provide specific treatments, care, or services to residents. Examples of individuals who may be authorized by law to provide the aforementioned treatment/care/services may include, but are not limited to, advanced practice registered nurses, physician's assistants.

L. Blood Assay for *Mycobacterium tuberculosis* (BAMT). A general term to refer to *in vitro* diagnostic tests that assess for the presence of tuberculosis (TB) infection with *M. tuberculosis*. This term includes, but is not limited to, IFN- γ release assays (IGRA).

M. Boarding House. A business/entity which provides room and board to an individual(s) and which does not provide a degree of personal care to more than one individual.

N. Community Residential Care Facility (CRCF). A facility which offers room and board and which, unlike a boarding house, provides/coordinates a degree of personal care for a period of time in excess of 24 consecutive hours for two or more persons, 18 years old or older, not related to the licensee within the third degree of consanguinity. It is designed to accommodate residents' changing needs and preferences, maximize residents' dignity, autonomy, privacy, independence, and safety, and encourage family and community involvement. Included in this definition is any facility (other than a hospital), which offers or represents to the public that it offers a beneficial or protected environment specifically for individuals who have mental illness or disabilities. These facilities may be referred to as "assisted living" provided they meet the above definition of community residential care facility.

O. Contact Investigation. Procedures that occur when a case of infectious TB is identified, including finding persons (contacts) exposed to the case, testing and evaluation of contacts to identify Latent TB Infection (LTBI) or TB disease, and treatment of these persons, as indicated.

P. Controlled Substance. A medication or other substance included in Schedule I, II, III, IV, and V of the Federal Controlled Substances Act and the South Carolina Controlled Substances Act.

Q. Consultation. A visit to a licensed facility by individuals authorized by the Department to provide information to facilities to enable/encourage facilities to better comply with the regulations.

R. Dentist. An individual currently licensed to practice dentistry by the S.C. Board of Dentistry.

S. Dietitian. A person who is registered by the Commission on Dietetic Registration.

138 FINAL REGULATIONS

T. Department. The S.C. Department of Health and Environmental Control (DHEC).

U. Designee. A staff member designated by the administrator to act on his/her behalf.

V. Direct Care Staff Member/Direct Care Volunteer. Those individuals who provide assistance with activities of daily living to residents.

W. Discharge. The point at which residence in a facility is terminated and the facility no longer maintains active responsibility for the care of the resident.

X. Dispensing Medication. The transfer of possession of one or more doses of a drug or device by a licensed pharmacist or person as permitted by law, to the ultimate consumer or his/her agent pursuant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to, or use by a resident.

Y. Existing Facility. A facility which was in operation and/or one which, as approved by the Department, began the construction or renovation of a building, for the purpose of operating the facility, prior to the promulgation of this regulation. The licensing standards governing new facilities apply if and when an existing facility is not continuously operated and licensed under this regulation.

Z. Facility. A community residential care facility licensed by the Department.

AA. Health Assessment. An evaluation of the health status of a staff member/volunteer by a physician, other authorized healthcare provider, or registered nurse, pursuant to written standing orders and/or protocol approved by a physician's signature. The standing orders/protocol shall be reviewed annually by the physician, with a copy maintained at the facility.

BB. Incident. An unusual unexpected adverse event resulting in harm, injury, or death of staff or residents, accidents, *e.g.*, medication errors, adverse medication reactions, elopement of a resident.

CC. Individual Care Plan (ICP). A documented regimen of appropriate care/services or written action plan prepared by the facility for each resident based on assessment data and which is to be implemented for the benefit of the resident.

DD. Initial License. A license granted to a new facility.

EE. Inspection. A visit by authorized individuals to a facility or to a proposed facility for the purpose of determining compliance with this regulation.

FF. Investigation. A visit by authorized individuals to a licensed or unlicensed entity for the purpose of determining the validity of allegations received by the Department relating to this regulation.

GG. Latent TB Infection (LTBI). Infection with *M. tuberculosis*. Persons with Latent TB Infection carry the organism that causes TB but do not have TB disease, are asymptomatic, and are noninfectious. Such persons usually have a positive reaction to the tuberculin skin test and/or positive BAMT.

HH. Legend Drug.

1. A drug when, under federal law, is required, prior to being dispensed or delivered, to be labeled with any of the following statements:

a. "Caution: Federal law prohibits dispensing without prescription";

b. "Rx only" or;

2. A drug which is required by any applicable federal or state law to be dispensed pursuant only to a prescription drug order or is restricted to use by practitioners only;

3. Any drug products considered to be a public health threat, after notice and public hearing as designated by the S.C. Board of Pharmacy; or

4. Any prescribed compounded prescription drug within the meaning of the Pharmacy Act.

II. License. The authorization to operate a facility as defined in this regulation and as evidenced by a current certificate issued by the Department to a facility.

JJ. Licensed Nurse. A person to whom the S.C. Board of Nursing has issued a license as a registered nurse or licensed practical nurse.

KK. Licensee. The individual, corporation, organization, or public entity that has received a license to provide care/services at a facility and with whom rests the ultimate responsibility for compliance with this regulation.

LL. Local Transportation. The maximum travel distance the facility shall undertake, at no cost to the resident, as addressed by the resident written agreement, to secure/provide health care for resident. Local transportation shall be based on a reasonable assessment of the proximity of customary health care resources in the region, *e.g.*, nearest hospitals, physicians and other health care providers, and appropriate consideration of resident preferences.

MM. Medication. A substance that has therapeutic effects, including, but not limited to, legend, nonlegend, herbal products, over-the counter, nonprescription, vitamins, and nutritional supplements, etc.

NN. New Facility. All buildings or portions of buildings, new and existing building(s), that are:

1. Being licensed for the first time;
2. Providing a different service that requires a change in the type of license;
3. Being licensed after the previous licensee's license has been revoked, suspended, or after the previous licensee has voluntarily surrendered the license and the facility has not continuously operated.

OO. Nonlegend Drug. A drug which may be sold without a prescription and which is labeled for use by the consumer in accordance with the requirements of the laws of this State and the federal government.

PP. Peak Hours. Those hours from 7 a.m. to 7 p.m., or as otherwise approved in writing by the Department.

QQ. Personal Care. The provision by the staff members/direct care volunteers of the facility of one or more of the following services, as required by the individual care plan or orders by the physician or other authorized healthcare provider or as reasonably requested by the resident, including:

1. Assisting and/or directing the resident with activities of daily living;
2. Being aware of the resident's general whereabouts, although the resident may travel independently in the community;

140 FINAL REGULATIONS

3. Monitoring of the activities of the resident while on the premises of the residence to ensure his/her health, safety, and well-being.

RR. Personal Monies. All monies which are available to the resident for his/her personal use, including family donations.

SS. Pharmacist. An individual currently registered as such by the S.C. Board of Pharmacy.

TT. Physical Examination. An examination of a resident by a physician or other authorized healthcare provider which addresses those issues identified in Section 1101 of this regulation.

UU. Physician. An individual currently licensed to practice medicine by the S.C. Board of Medical Examiners.

VV. Physician's Assistant. An individual currently licensed as such by the S.C. Board of Medical Examiners.

WW. Private Sitter. A private contractor not associated with or employed by the facility with whom the resident or the resident's responsible party contracts to provide sitter or companion services.

XX. Quality Improvement Program. The process used by a facility to examine its methods and practices of providing care/services, identify the ways to improve its performance, and take actions that result in higher quality of care/services for the facility's residents.

YY. Quarterly. A time period that requires an activity to be performed at least four (4) times a year within intervals ranging from eighty-one to ninety-nine (81 to 99) days.

ZZ. Ramp. An inclined accessible route that facilitates entrance to or egress from or within a facility.

AAA. Related/Relative. This degree of kinship is considered "within the third degree of consanguinity," *e.g.*, a spouse, son, daughter, sister, brother, parent, aunt, uncle, niece, nephew, grandparent, great-grandparent, grandchild, or great-grandchild.

BBB. Repeat Violation. The recurrence of a violation cited under the same section of the regulation within a 36-month period. The time-period determinant of repeat violation status is applicable in instances when there are ownership changes.

CCC. Resident. Any individual, other than staff members/volunteers or owner and their family members, who resides in a facility.

DDD. Resident Room. An area enclosed by four ceiling high walls that can house one or more residents of the facility.

EEE. Respite Care. Short-term care (a period of six weeks or less) provided to an individual to relieve the family members or other persons caring for the individual.

FFF. Responsible Party. A person who is authorized by law to make decisions on behalf of a resident, to include, but not be limited to, a court-appointed guardian (or legal guardian as referred to in the Resident's Bill of Rights) or conservator, or health care or other durable power of attorney.

GGG. Restraint. A device which inhibits the movement of a resident, *e.g.*, posey vest, geri-chair.

HHH. Revocation of License. An action by the Department to cancel or annul a facility license by recalling, withdrawing, or rescinding its authority to operate.

III. Risk Assessment. An initial and ongoing evaluation of the risk for transmission of *M. tuberculosis* in a particular healthcare setting. To perform a risk assessment, the following factors shall be considered: the community rate of TB, number of TB patients encountered in the setting, and the speed with which patients with TB disease are suspected, isolated, and evaluated. The TB risk assessment determines the types of administrative and environmental controls and respiratory protection needed for a setting.

JJJ. Sponsor. The public agency or individual involved in one or more of the following: protective custody authorized by law, placement, providing ongoing services, or assisting in providing services to a resident(s) consistent with the wishes of the resident or responsible party or specific administrative or court order.

KKK. Staff Member. An adult, to include the administrator, who is a compensated employee of the facility on either a full or part-time basis.

LLL. Suspend License. An action by the Department requiring a facility to cease operations for a period of time or to require a facility to cease admitting residents, until such time as the Department rescinds that restriction.

MMM. Volunteer. An adult who performs tasks at the facility at the direction of the administrator without compensation.

102. References.

Amend Section 102.B.16 to read:

16. Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, December 30, 2005;

103. License Requirements (II).

Revise five subsections in Section 103; delete two subsections; other subsection items remain the same; adjust outline in alphabetical order.

A. License. No person, private or public organization, political subdivision, or governmental agency shall establish, operate, maintain, or represent itself (advertise/market) as a community residential care facility/assisted living facility in S.C. without first obtaining a license from the Department. Admission of residents prior to the effective date of licensure is a violation of Section 44-7-260(A)(6) of the S.C. Code of Laws, 1976, as amended. When it has been determined by the Department that room, board, and a degree of personal care to two or more adults unrelated to the owner is being provided at a location, and the owner has not been issued a license from the Department to provide such care, the owner shall cease operation immediately and ensure the safety, health, and well-being of the occupants. Current/previous violations of the S.C. Code and/or Department regulations may jeopardize the issuance of a license for the facility or the licensing of any other facility, or addition to an existing facility which is owned/operated by the licensee. The facility shall provide only the care/services it is licensed to provide pursuant to the definitions in Sections 101.N and 101.QQ of this regulation. (I)

B. Compliance. An initial license shall not be issued to a proposed facility that has not been previously and continuously licensed under Department regulations until the licensee has demonstrated to the Department that the proposed facility is in substantial compliance with the licensing standards. In the event a licensee who already has a facility/activity licensed by the Department makes application for another facility or increase in licensed bed capacity, the currently licensed facility/activity shall be in substantial compliance with the

142 FINAL REGULATIONS

applicable standards prior to the Department issuing a license to the proposed facility or amended license to the existing facility. A copy of the licensing standards shall be maintained at the facility and accessible to all staff members/volunteers. Facilities shall comply with applicable local, state, and federal laws, codes, and regulations.

D. **Licensed Bed Capacity.** No facility that has been authorized to provide a set number of licensed beds, as identified on the face of the license, shall exceed the bed capacity. No facility shall establish new care/services or occupy additional beds or renovated space without first obtaining authorization from the Department. Beds for use of staff members/volunteers are not included in the licensed bed capacity number, provided such beds and locations are so identified and used exclusively by staff members/volunteers. (I)

E. **Persons Received in Excess of Licensed Bed Capacity.** No facility shall receive for care or services persons in excess of the licensed bed capacity, except in cases of justified emergencies. (I)

EXCEPTION: In the event that the facility temporarily provides shelter for evacuees who have been displaced due to a disaster, then for the duration of that emergency, provided the health, safety, and well-being of all residents are not compromised, it is permissible to temporarily exceed the licensed capacity for the facility in order to accommodate these individuals (See Section 606).

F. **Living Quarters for Staff Members.** In addition to residents, only staff members, volunteers, or owners of the facility and members of the owner's immediate family may reside in facilities licensed under this regulation. Resident rooms shall not be utilized by any individuals other than facility residents, nor shall bedrooms of staff members/family members of the owner or the licensee be utilized by residents. Staff members/family members of the owner or licensee/volunteers shall not use resident living rooms, recreational areas or dining rooms unless they are on duty.

G. Issuance and Terms of License.

1. A license is issued by the Department and shall be posted in a conspicuous place in a public area within the facility.

2. The issuance of a license does not guarantee adequacy of individual care, services, personal safety, fire safety, or the well-being of any resident or occupant of a facility.

3. A license is not assignable or transferable and is subject to revocation at any time by the Department for the licensee's failure to comply with the laws and regulations of this State.

4. A license shall be effective for a specified facility, at a specific location(s), for a specified period following the date of issue as determined by the Department. A license shall remain in effect until the Department notifies the licensee of a change in that status.

5. Facilities owned by the same entity but which are not located on the same adjoining or contiguous property shall be separately licensed. Roads or local streets, except limited access, *e.g.*, interstate highways, shall not be considered as dividing otherwise adjoining or contiguous property.

6. Separate licenses are not required, but may be issued, for separate buildings on the same or adjoining grounds where a single level or type of care is provided.

7. Multiple types of facilities on the same premises shall be licensed separately even though owned by the same entity.

8. Facilities may furnish respite care provided compliance with the standards of this regulation are met.

H. Facility Name. No proposed facility shall be named nor shall any existing facility have its name changed to the same or similar name as any other facility licensed in S.C. The Department shall determine if names are similar. If the facility is part of a "chain operation" it shall then have the geographic area in which it is located as part of its name.

I. Application. Applicants for a license shall submit to the Department a complete and accurate application on a form prescribed and furnished by the Department prior to initial licensing and periodically thereafter at intervals determined by the Department. The application includes both the applicant's oath assuring that the contents of the application are accurate/true, and that the applicant will comply with this regulation. The application shall be signed by the owner(s) if an individual or partnership; in the case of a corporation, by two of its officers; or in the case of a governmental unit, by the head of the governmental department having jurisdiction. The application shall set forth the full name and address of the facility for which the license is sought and of the owner in the event his/her address is different from that of the facility, the names of the persons in control of the facility. The Department may require additional information, including affirmative evidence of the applicant's ability to comply with these regulations. Corporations or limited partnerships, limited liability companies or any other organized business entity must be registered with the S. C. Office of the Secretary of State if required to do so by S. C. state law.

J. Licensing Fees. The annual license fee shall be \$10.00 per licensed bed or \$75.00 whichever is greater. Such fee shall be made payable by check or credit card to the Department and is not refundable. Fees for additional beds shall be prorated based upon the remaining months of the licensure year. If the application is denied or withdrawn, a portion of the fee may be refunded based upon the remaining months of the licensure year, or \$75.00 whichever is lesser.

K. Late Fee. Failure to submit a renewal application or fee 30 days or more after the license expiration date may result in a late fee of \$75.00 or 25% of the licensing fee amount, whichever is greater, in addition to the licensing fee. Continual failure to submit completed and accurate renewal applications and/or fees by the time-period specified by the Department may result in an enforcement action.

L. License Renewal. For a license to be renewed, applicants shall file an application with the Department, pay a license fee, and shall not be undergoing enforcement actions by the Department. If the license renewal is delayed due to enforcement actions, the renewal license shall be issued only when the matter has been resolved satisfactorily by the Department, or when the adjudicatory process is completed, whichever is applicable.

M. Change of License.

1. A facility shall request issuance of an amended license by application to the Department prior to any of the following circumstances:

- a. Change of ownership;
- b. Change of licensed bed capacity;
- c. Change of facility location from one geographic site to another.

2. Changes in facility name or address (as notified by the post office) shall be accomplished by application or by letter from the licensee.

N. Exceptions to Licensing Standards. The Department has the authority to make exceptions to these standards where it is determined that the health, safety, and wellbeing of the residents are not compromised, and provided the standard is not specifically required by statute.

144 FINAL REGULATIONS

SECTION 200 – ENFORCING REGULATIONS

Section 202. Inspections/Investigations.

Revise Section 202.E to read:

E. A copy of the most recent report of the resident care focused inspection and the most recent general inspection conducted by the Department, including the facility response, shall be available in a conspicuous place in a public area within the facility with the redaction of the names of those individuals in the report as provided by Sections 44-7-310 and 44-7-315 of the S.C. Code of Laws, 1976, as amended.

SECTION 300 – ENFORCEMENT ACTIONS

Section 302. Violation Classifications.

Revise Section 302.E to read:

E. In determining an enforcement action the Department shall consider the following factors:

1. Specific conditions and their impact or potential impact on health, safety or well-being of the residents including: deficiencies in medication management, such as evidence that residents are not routinely receiving their prescribed medications; serious waste water problems, such as toilets not operating or open sewage covering the grounds; housekeeping/maintenance/fire and life safety-related problems that pose a health threat to the residents; power/water/gas or other utility and/or service outages; residents exposed to air temperature extremes that jeopardize their health; unsafe condition of the building/structure such as a roof in danger of collapse; indictment of an administrator for malfeasance or a felony, which by its nature, such as drug dealing, indicates a threat to the residents; direct evidence of abuse, neglect, or exploitation; lack of food or evidence that the residents are not being fed properly; no staff available at the facility with residents present; unsafe procedures/treatment being practiced by staff; (I)

2. Repeated failure of the licensee/facility to pay assessed charges for utilities and/or services resulting in repeated or ongoing threats to terminate the contracted utilities and/or services. (II)

3. Efforts by the facility to correct cited violations;

4. Overall conditions of the facility;

5. History of compliance; and

6. Any other pertinent conditions that may be applicable to current statutes and regulations.

Revise Section 302.F to read:

F. When imposing a monetary penalty, the Department may invoke S.C. Code Ann. Section 44-7-320 (C) (1976, as amended) to determine the dollar amount or may utilize the following schedule:

**Frequency of violation
of standard within a
36-month period:**

MONETARY PENALTY RANGES

FREQUENCY	CLASS I	CLASS II	CLASS III
1 st	\$500 – 1,500	\$300 - 800	\$100 - 300
2 nd	1000 – 3000	500 – 1500	300 - 800
3 rd	2000 – 5000	1000 – 3000	500 – 1500
4 th	5000	2000 – 5000	1000 – 3000
5 th	5000	5000	2000 – 5000
6 th	5000	5000	5000

Revise Section 302.G to read:

G. Any Department decision involving the issuance, denial, renewal, suspension, or revocation of a license and/or the imposition of monetary penalties where an enforcement order has been issued may be appealed by an affected person with standing pursuant to applicable law, including S.C. Code Title 44, Chapter 1 and Title 1, Chapter 23.

SECTION 400 – POLICIES AND PROCEDURES**Section 401. General (II).****Revise Section 401.A to read:**

A. Written policies and procedures addressing each section of this regulation regarding resident care, rights, and the operation of the facility shall be developed and implemented, and revised as required in order to accurately reflect actual facility operation. The policies and procedures shall address the provision of any special care offered by the facility which would include how the facility shall meet the specialized needs of the affected residents such as Alzheimer's disease and/or related dementia, physically/developmentally disabled, in accordance with any laws which pertain to that service offered, *e.g.*, Alzheimer's Special Care Disclosure Act. Facilities shall establish a time-period for review of all policies and procedures. These policies and procedures shall be accessible at all times and a hard copy shall be available or be readily accessible.

SECTION 500 – STAFF/TRAINING**Section 501. General (II).****Revise Section 501.B to read:**

B. Staff members/direct care volunteers/private sitters of the facility shall not have a prior conviction or pled no contest (*nolo contendere*) to abuse, neglect, or exploitation of a child or a vulnerable adult as defined in S. C. Code Ann. Section 43-35-10, *et seq.* (1976, as amended). (I)

Section 502. Administrator.**Revise Section 502.A to read:**

146 FINAL REGULATIONS

A. The facility administrator shall be licensed as a CRCF administrator in accordance with S.C. Code Ann. Section 40-35-30 (1976, as amended). In addition, all other applicable provisions of Title 40, Chapter 35, S.C. Code of Laws 1976, as amended, shall be followed.

Section 503. Staffing (I).

Revise 503.B to read:

B. The number and qualifications of staff members/volunteers shall be determined by the number and condition of the residents. There shall be sufficient staff members/volunteers to provide supervision, direct care and basic services for residents, *e.g.*, those with Alzheimer's disease and/or related dementia or in an Alzheimer's special care unit or program. The minimum number of staff members/volunteers that shall be maintained in all facilities:

Section 504. Inservice Training (II).

Revise Section 504.A introductory only; subsection items 1-11 remain the same:

A. Documentation of all inservice training shall be signed and dated by both the individual providing the training and the individual receiving the training. The following training shall be provided by appropriate resources, *e.g.*, licensed/registered persons, video tapes, books, *etc.*, to all staff members/direct care volunteers and private sitters in the context of their job duties and responsibilities, prior to resident contact and at a frequency determined by the facility, but at least annually unless otherwise specified by certificate, *e.g.*, cardiopulmonary resuscitation (CPR):

Revise Section 504.B to read:

B. At least one staff person shall be trained and responsible for providing/coordinating recreational activities for the residents and shall receive appropriate training prior to contact with residents and at least annually thereafter. Documentation of staff training for providing/coordinating recreational activities shall be maintained.

Add new Section 506 to read:

Section 506. Private Sitters (II).

A. Unless the written agreement (See Section 901.A) between a resident and the facility prohibits the use of private sitters, the facility shall establish a formalized private sitter program directed by a facility staff member so that residents or their responsible party may contract for sitter services.

1. The facility shall assure that private sitters have been chosen in accordance with the Residents Bill of Rights.

2. Facilities allowing the use of private sitters shall establish written policies and procedures for private sitters that include an orientation to the facility consisting, at least, of the following:

- a. Residents' rights;
- b. Confidentiality;
- c. Disaster preparedness;
- d. Emergency response procedures;

- e. Safety procedures and precautions; and
 - f. Infection control.
3. There shall be accurate current information maintained regarding private sitters including:
- a. Name, address and telephone number;
 - b. Documentation of orientation to the facility, including residents' rights, regulation compliance, policies and procedures, training, and duties;
 - c. Date of initial resident contact may be maintained by the facility, if applicable.
- B. The facility shall maintain the following documentation regarding private sitters:
- 1. A health assessment (in accordance with Section 505.A) within twelve (12) months prior to initial resident contact or his or her first day working as a private sitter;
 - 2. A criminal record check (See Section 501.B.) completed prior to working as a private sitter;
 - 3. Determination of TB status (See Section 1702.D.) prior to initial resident contact or his or her first day working as a private sitter.
- C. Private sitters shall not be included in the minimum staffing requirements of Section 503.B.
- D. Private sitters shall sign in and sign out with facility staff upon entering or leaving the facility. Private sitters shall display identification in accordance with facility policies and procedures that is visible at all times while on duty.

SECTION 600 – REPORTING

Revise Section 601 to read:

Section 601. Incidents.

- A. A record of each incident and/or accident, including usage of mechanical/physical restraints, involving residents, staff members or volunteers, occurring in the facility or on the facility grounds, shall be documented, reviewed, investigated, and if necessary, evaluated in accordance with facility policies and procedures, and retained.
- B. Serious incidents and/or medical conditions as defined in Section 601.C and any sudden or unexpected illness or medication administration error resulting in death or inpatient hospitalization shall be reported immediately via telephone to the attending physician, the resident's next-of-kin or responsible party, and the sponsoring agency.
- C. A serious incident is one that results in death or a significant loss of function or damage to a body structure, not related to the natural course of a resident's illness or underlying condition or normal course of treatment, and resulting from an incident occurring within the facility or on the facility grounds. A serious incident shall be considered as, but is not limited to:
 - 1. Falls or trauma resulting in fractures of major limbs or joints;
 - 2. Resident suicides;

148 FINAL REGULATIONS

3. Medication errors;
4. Criminal events or assaults against residents;
5. Medical equipment errors; or,
6. Resident neglect or exploitation, suspected or confirmed resident abuse.

D. The Department's Division of Health Licensing shall be notified in writing within ten (10) days of the occurrence of a serious incident.

E. Reports submitted to the Department shall contain at a minimum: facility name, resident age and sex, date of incident, location, witness names, extent and type of injury and how treated, *e.g.*, hospitalization, identified cause of incident, internal investigation results if cause unknown, identity of other agencies notified of incident and the date of the report.

F. Incidents where residents have left the premises without notice to staff members of intent to leave and have not returned to the facility within twenty-four (24) hours shall be reported to the administrator or his or her designee, local law enforcement, and the resident's responsible party, when appropriate. The Division of Health Licensing shall be notified in writing not later than ten (10) days of the occurrence. When residents who are cognitively impaired leave the premises without notice to staff members, regardless of the time-period of departure, the administrator or his or her designee, local law enforcement, next-of-kin, and sponsoring agency shall be contacted immediately by telephone or facsimile. DHL shall be notified not later than ten (10) days of the occurrence.

G. Medication errors and adverse medication reactions shall be reported immediately after discovery to the prescriber and other staff in accordance with facility policies and procedures.

H. Changes in a resident's condition, to the extent that serious health concerns, *e.g.*, heart attack, are evident, shall be reported to the attending physician and the next-of-kin or responsible party in a timely manner, consistent with the severity or urgency of the condition in accordance with facility policies and procedures. (I)

I. Abuse and suspected abuse, neglect, or exploitation of residents shall be reported to the South Carolina Long-Term Care Ombudsman Program in accordance with S.C. Code of Law Section 43-35-25 (1976, as amended).

Revise Section 604 to read:

Section 604. Administrator Change.

DHL shall be notified in writing by the licensee within ten (10) days of any change in administrator. The notice shall include at a minimum the name of the newly-appointed individual, the effective date of the appointment, and a copy of the administrator's license and the hours each day that the newly-appointed individual will be working as the administrator of the facility.

SECTION 700 – RESIDENT RECORDS

Section 701. Content (II).

Revise Section 701.B(6) and (10) to read:

- B. Specific entries/documentation shall include at a minimum:

6. Notes of observation. In instances that involve significant changes in a resident's medical condition and/or the occurrence of a serious incident, notes of observation shall be documented at least daily until the condition is stabilized and/or the incident is resolved. In all other instances, notes of observation for residents shall be documented at least monthly;

10. Photograph of resident. Resident photographs shall be at a minimum two and one half inches by three and one half inches (2 ½ by 3 ½ inches) in size, dated and no more than twenty-four (24) months old unless significant changes in appearance have occurred necessitating a more recent photograph.

Revise Section 702 to read:

Section 702. Assessment (II).

A written assessment of the resident in accordance with Section 101.J. shall be conducted by a direct care staff member as evidenced by his or her signature within a time-period determined by the facility, but no later than 72 hours after admission.

SECTION 800 – ADMISSION/RETENTION

Section 801. General (I).

Revise Sections 801.B and C; Sections A, D and E remain the same:

B. The facility shall admit and retain only those persons appropriate for placement in a CRCF in compliance with the standards of this regulation.

C. Persons not eligible for admission/retention are:

1. Any person who is likely to endanger him/herself or others as determined by a physician or other authorized healthcare provider;

2. Any person other than an adult; (II)

3. Any person needing hospitalization or nursing home care;

4. Anyone needing the continuous daily attention of a licensed nurse. Nursing care may be furnished to residents in need of short-term intermittent nursing care (no more than fourteen (14) consecutive days) while convalescing from illness or injury, provided the nursing services, *e.g.*, the utilization of a home health nurse for sterile dressing changes or for observation related to a surgical site, are furnished by a licensed nurse facility staff member or a home health nurse.

5. Any person who requires one of the following nursing services determined by the South Carolina Board of Nursing to require the skills of a licensed nurse for no more than fourteen (14) consecutive days:

a. Daily skilled monitoring/observation (except as permitted for no more than fourteen (14) consecutive days) due to an unstable or complex medical condition , *e.g.*, brittle diabetes, dialysis patients with complications such as infections in the blood;

b. Serious aggressive, violent or socially inappropriate behavioral symptoms which cannot be controlled or improved in the facility;

c. Medications that require frequent dosage adjustment, regulation and/or monitoring, *e.g.* diabetics receiving sliding scale insulin;

150 FINAL REGULATIONS

d. Intravenous medications or fluids, regular intra-muscular and subcutaneous injections by staff. This does not include injections administered on a part-time or intermittent basis by non-staff licensed nurses. Routine injection(s) of insulin scheduled daily or less frequently are permitted;

e. Care of urinary catheter that cannot be managed independently by the resident;

f. Treatment of stage 2, 3 or 4 decubitus ulcers, or multiple pressure sores or other widespread skin disorder (important considerations include: signs of infection, full thickness tissue loss, or requirement of sterile technique);

g. Nasogastric tube feeding or having to be fed by a syringe or straw due to difficulties in swallowing. Gastronomy tube feedings that cannot be managed independently by the resident;

h. Suctioning of the nose and/or mouth;

i. Tracheostomy or sterile care of the tracheostomy that cannot be managed independently by the resident;

j. Receiving oxygen for the first time, which requires adjustment and evaluation of oxygen concentration;

k. Dependency in all activities of daily living for more than fourteen (14) consecutive days, *e.g.*, bedridden; incapable of locomotion; unable to transfer; totally incontinent of urinary and/or bowel function; must be totally bathed and dressed and toileted and needs extensive assistance to eat. The facility should develop a transfer plan by the tenth (10th) day of total dependency for transfer on the fifteenth (15th) day if the resident is not improving; or

l. Sterile dressing changes. Licensed staff nurses or home health nurses may perform these changes for no more than fourteen (14) consecutive days before discharge is appropriate.

6. Anyone not meeting facility requirements for admission; the facility may determine who is eligible for admission and retention in its policies, provided compliance with local, state, and federal laws and regulations is accomplished.

SECTION 900 – RESIDENT CARE/SERVICES

Section 901. General.

Revise Section 901.A.8 to read:

A. There shall be a written agreement between the resident, and/or his/her responsible party, and the facility. The agreement shall include at least the following:

8. Documentation of the explanation of the Resident's Bill of Rights and the grievance procedure. (II)

Section 902. Fiscal Management (II).

Revise Section 902.H to read:

H. A report of the balance of resident finances shall be physically provided to each resident by the facility on a quarterly basis in accordance with the Resident's Bill of Rights, regardless of the balance amount, *e.g.*, zero balance. Documentation of quarterly reports to residents shall be readily available for review.

SECTION 1000 – RIGHTS AND ASSURANCES**Section 1001. General (II).****Revise Section 1001.L to read:**

L. Residents shall be permitted to use the telephone and shall be allowed privacy when placing or receiving telephone calls. This access shall include business hours from 7 a.m. through 8 p.m., seven (7) days a week, and other times when appropriate. This telephone service shall be available for use by residents and/or visitors for their private, discretionary use; pay phones for this purpose are acceptable. Telephones capable of only local calls are acceptable for this purpose, provided other arrangements exist to provide resident/visitor discretionary access to a telephone capable of long distance service.

SECTION 1100 – RESIDENT PHYSICAL EXAMINATION AND TB SCREENING**Section 1101. General (I).****Revise Section 1101.A to read:**

A. A physical examination shall be completed for residents within thirty (30) days prior to admission and at least annually thereafter. Physical examinations conducted within thirty (30) days prior to admission by physicians licensed in states other than South Carolina are permitted for new admissions under the condition that residents obtain an attending physician licensed in South Carolina within thirty (30) days of admission to the facility and undergo a second (2nd) physical examination by that physician within thirty (30) days of admission to the facility. The physical examination shall be updated to include new medical information if the resident's condition has changed since the last physical examination was completed. The physical examination shall address:

1. The appropriateness of placement in a CRCF;
2. Medications/treatments ordered;
3. Self-administration status;
4. Identification of special conditions/care required, *e.g.*, a communicable disease, dental problems, podiatric problems, Alzheimer's disease and/or related dementia, *etc.*; and,
5. The need of (or lack thereof) for the continuous daily attention of a licensed nurse.

Revise Section 1101.F. to read:

F. Isolation Provisions. Residents with contagious pulmonary tuberculosis shall be separated (See Section 1702.E) from all other noninfected residents until declared noncontagious by a physician or other authorized healthcare provider. Should it be determined that the facility cannot care for the resident to the degree which assures the health and safety of the resident and the other residents of the facility, the resident shall be relocated to a facility that can meet his/her needs.

Revise Section 1101.G. to read:

G. In the event that a resident transfers from a facility licensed by the Department to a CRCF, an additional admission physical examination shall not be required, provided the sending facility has had a physical examination conducted on the resident not earlier than twelve (12) months prior to the admission of the resident to the CRCF, and the physical examination meets requirements specified in Sections 1101.A - C

152 FINAL REGULATIONS

above unless the receiving facility has an indication that the health status of the resident has changed significantly. A tuberculin skin test and/or BAMT shall be required within one (1) month after admission to the CRCF to which the resident transfers, to document baseline status for that facility. The receiving facility shall acquire a copy of the admission physical examination/tuberculin skin test and/or BAMT from the facility transferring the resident. (See Section 1702.E regarding tuberculin skin testing and/or BAMT.)

SECTION 1200 – MEDICATION MANAGEMENT

Section 1201. General (I).

Revise Section 1201.A to read:

A. Medications, including controlled substances, medical supplies, and those items necessary for the rendering of first aid shall be available and properly managed in accordance with local, state, and federal laws and regulations. Such management shall address the securing, storing, and administering of medications, medical supplies, first aid supplies, and biologicals, their disposal when discontinued or outdated, and their disposition at discharge, death, or transfer of a resident.

Section 1202. Medication Orders (I).

Revise Section 1202 title to read:

Section 1202. Medication and Treatment Orders (I).

Revise Section 1202.A and B to read:

A. Medications and treatments, to include oxygen, shall be administered to residents only upon orders (to include standing orders) of a physician or other authorized healthcare provider. Medications accompanying residents at admission may be administered to residents provided the medication is in the original labeled container and the order is subsequently obtained as a part of the admission physical examination. Should there be concerns regarding the appropriateness of administering medications due to the condition/state of the medication, *e.g.*, expired, makeshift or illegible labels, or the condition/state of health of the newly-admitted resident, staff members shall consult with or make arrangements to have the resident examined by a physician or other authorized healthcare provider, or at the local hospital emergency room prior to administering any medications.

B. All orders (including verbal orders) shall be received only by staff members authorized by the facility, and shall be signed and dated by a physician or other authorized healthcare provider no later than three (3) business days after the order is given.

1203. Administering Medication (I).

Revise Section 1203 title to read:

1203. Administering Medication/Treatments (I).

Revise Section 1203.A to read:

A. Doses of medication shall be administered by the same staff member who prepared them for administration. Preparation shall occur no earlier than one hour prior to administering. Preparation of doses for more than one scheduled administration shall not be permitted. Each physician ordered treatment or medication dose administered/supervised shall be properly recorded by initialing on the resident's medication administration record (MAR) as the medication is administered or treatment record as treatment is rendered.

Recording medication administration shall include medication name, dosage, mode of administration, date, time, and the signature of the individual administering or supervising the taking of the medication. The treatment record shall document the type of treatment, date and time of treatment and signature of the individual administering treatment. If the ordered dosage is to be given on a varying schedule, *e.g.*, “take two tablets the first day and one tablet every other day by mouth with noon meal,” the number of tablets shall also be recorded.

Section 1205. Medication Containers (I).

Revise Section 1205.B to read:

B. Medications for each resident shall be kept in the original container(s) including unit dose systems; there shall be no transferring between containers (except in instances such as in Section 1203.E above), or opening blister packs to remove medications for destruction or adding new medications for administration, except under the direction of a pharmacist. In addition, for those facilities that utilize the unit dose system or multi-dose system, an on-site review of the medication program by a pharmacist shall be conducted on at least a quarterly basis to assure the program has been properly implemented and maintained. For changes in dosage, the new packaging shall be available in the facility no later than the next administration time subsequent to the order.

Section 1206. Medication Storage (I).

Revise Section 1206.A to read:

A. Medications shall be properly stored and safeguarded to prevent access by unauthorized persons. Expired or discontinued medications shall not be stored with current medications. Storage areas shall be locked, and of sufficient size for clean and orderly storage. Storage areas shall not be located near sources of heat, humidity, or other hazards that may negatively impact medication effectiveness or shelf life. Medications requiring refrigeration shall be stored in a refrigerator at the temperature established by the U.S. Pharmacopeia (36-46 degrees F.). If a multi-use refrigerator is used to store medications outside the secured medication storage area, a separate locked box shall be used to store medications, provided the refrigerator is near the medication storage area. Accurate thermometers (within ± 3 degrees) shall be provided in all refrigerators storing medications.

Revise Section 1206.C to read:

C. Records of receipt, administration and disposition of all controlled substances shall be maintained in sufficient detail to enable an accurate reconciliation.

SECTION 1300 – MEAL SERVICE

Section 1306. Diets.

Revise Section 1306.A to read:

A. If the facility accepts or retains residents in need of medically-prescribed special diets, the menus for such diets shall be planned by a professionally-qualified dietitian or shall be reviewed and approved by a physician or other authorized healthcare provider. The facility shall maintain documentation that each of these menus has been planned by a dietitian, a physician or other authorized healthcare provider. At a minimum, documentation for each resident’s special diet menu shall include the signature of the dietitian, the physician or other authorized healthcare provider, his/her title, and the date he/she signed the menu. The facility shall maintain staff capable of the preparation/serving of any special diet, *e.g.*, low-sodium, low-fat, 1200-calorie, diabetic diet. Facility staff preparing a resident’s special diet shall be knowledgeable of the procedure to

154 FINAL REGULATIONS

prepare each special diet. The preparation of any resident's special diet shall follow the written guidance provided by a registered dietitian, physician, or other authorized healthcare provider authorizing the resident's special diet. For each resident receiving a special diet, this written guidance shall be documented in the resident's record. (I)

Section 1309. Equipment (II).

Revise Section 1309.A to read:

A. Liquid or powder soap dispensers and sanitary paper towels shall be available at each food service handwash lavatory. Alcohol-based waterless hand sanitizers shall not be used in lieu of liquid or powder soap.

SECTION 1400 – EMERGENCY PROCEDURES/DISASTER PREPAREDNESS

Section 1401. Disaster Preparedness (II)

Revise Section 1401.B.1.c to read:

B. The disaster plan shall include, but not be limited to:

1. A sheltering plan to include:

c. A letter of agreement signed by an authorized representative of each sheltering facility which shall include: the number of relocated residents that can be accommodated; sleeping, feeding, and medication plans for the relocated residents; and provisions for accommodating relocated staff members/ volunteers. The letter shall be updated annually with the sheltering facility and whenever significant changes occur. For those facilities located in Beaufort, Charleston, Colleton, Horry, Jasper, and Georgetown counties, at least one sheltering facility shall be located in a county other than these counties.

Section 1403. Continuity of Essential Services (II).

Revise Section 1403 to read:

There shall be a written plan to be implemented to assure the continuation of essential resident support services for such reasons as power outage, water shortage, or in the event of the absence from work of any portion of the workforce resulting from inclement weather or other causes.

SECTION 1500 –FIRE PREVENTION

Section 1503. Fire Response Training (I).

Revise Section 1503.C to read:

C. All residents capable of assisting in their evacuation shall be trained in the proper actions to take in the event of a fire, *e.g.*, actions to take if the primary escape route is blocked.

SECTION 1700 – INFECTION CONTROL AND ENVIRONMENT

Section 1702. Tuberculin Skin Testing (I).

Revise Section 1702 to read:

A. Tuberculin skin testing is a diagnostic tool for detecting *M. tuberculosis* infection. A small dose (0.1 mil) of purified protein derivative (PPD) tuberculin is injected just beneath the surface of the skin (by the intradermal Mantoux method), and the area is examined for induration (hard, dense, raised area at the site of the TST administration) forty-eight to seventy-two (48 to 72) hours after the injection (but positive reactions can still be measurable up to a week after administering the TST). The size of the indurated area is measured with a millimeter ruler and the reading is recorded in millimeters, including zero (0) mm to represent no induration. Redness/erythema is insignificant and is not measured or recorded. Authorized healthcare providers are permitted to perform tuberculin skin testing and symptom screening.

B. All facilities shall conduct an annual tuberculosis risk assessment (See Section 101.III) in accordance with CDC guidelines (See Section 102.B.16) to determine the appropriateness and frequency of tuberculosis screening and other tuberculosis related measures to be taken.

C. The risk classification, *i.e.*, low risk, medium risk, shall be used as part of the risk assessment to determine the need for an ongoing TB screening program for staff/direct care volunteers and residents and the frequency of screening. A risk classification shall be determined for the entire facility. In certain settings, *e.g.*, healthcare organizations that encompass multiple sites or types of services, specific areas defined by geography, functional units, patient population, job type, or location within the setting may have separate risk classifications.

D. Staff/Direct Care Volunteers/Private Sitters Tuberculin Skin Testing

1. Tuberculosis Status. Prior to date of hire or initial resident contact, the tuberculosis status of staff/direct care volunteer/private sitters shall be determined in the following manner in accordance with the applicable risk classification:

2. Low Risk:

a. Baseline two-step Tuberculin Skin Test (TST) or a single Blood Assay for *Mycobacterium tuberculosis* (BAMT): All staff/direct care volunteers/private sitters (within three (3) months prior to contact with residents) unless there is a documented TST or a BAMT result during the previous twelve (12) months. If a newly employed staff/direct care volunteer or private sitter has had a documented negative TST or a BAMT result within the previous twelve (12) months, a single TST (or the single BAMT) can be administered and read to serve as the baseline prior to resident contact.

b. Periodic TST or BAMT is not required.

c. Post-exposure TST or a BAMT for staff/direct care volunteers upon unprotected exposure to *M. tuberculosis*: Perform a contact investigation when unprotected exposure is identified. Administer one (1) TST or a BAMT as soon as possible to all staff who have had unprotected exposure to an infectious TB case/suspect. If the TST or the BAMT result is negative, administer another TST or a BAMT eight to ten (8 to 10) weeks after that exposure to *M. tuberculosis* ended.

d. Post-exposure TST or a BAMT for private sitters upon unprotected exposure to *M. tuberculosis*: Written evidence of a contact investigation when unprotected exposure is identified shall be provided to the facility administrator. The private sitter shall provide documentation of a completed single TST or a BAMT prior to resident contact. If the TST or BAMT result is negative, the private sitter shall provide written evidence of an additional TST or BAMT eight to ten (8 to 10) weeks after that exposure to *M. tuberculosis* ended. (CDC: Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, December 30, 2005).

e. Baseline positive with or without documentation of treatment for latent TB infection (LTBI) (See Section 101.GG) or TB disease shall have a symptoms screen prior to employment and annually thereafter.

156 FINAL REGULATIONS

f. Upon hire, staff/direct care volunteers/private sitters with a newly positive test result for *M. tuberculosis* infection (*i.e.*, TST or BAMT) or signs or symptoms of tuberculosis, *e.g.*, cough, weight loss, night sweats, fever, shall have a chest radiograph performed immediately to exclude TB disease (or evaluate an interpretable copy taken within the previous three (3) months). Repeat radiographs are not needed unless symptoms or signs of TB disease develop or unless recommended by a physician. These staff members/direct care volunteers/private sitters will be evaluated for the need for treatment of TB disease or latent TB infection (LTBI) and will be encouraged to follow the recommendations made by a physician with TB expertise (*i.e.*, the Department's TB Control program).

3. Medium Risk:

a. Baseline two-step TST or a single BAMT: All staff/direct care volunteers/private sitters (within three (3) months prior to contact with residents) unless there is a documented TST or a BAMT result during the previous twelve (12) months. If a newly employed staff/direct care volunteer/private sitter has had a documented negative TST or a BAMT result within the previous twelve (12) months, a single TST (or the single BAMT) can be administered to serve as the baseline prior to resident contact.

b. Periodic testing (with TST or BAMT): Annually, of all staff/direct care volunteers who have risk of TB exposure and who have previous documented negative results. Instead of participating in periodic testing, staff/direct care volunteers with documented TB infection (positive TST or BAMT) shall receive a symptom screen annually. This screen shall be accomplished by educating the staff/direct care volunteers who have documented TB infection about symptoms of TB disease (including the staff's and/or direct care volunteers' responses concerning symptoms of TB disease), documenting the questioning of the staff/direct care volunteers about the presence of symptoms of TB disease, and instructing the staff/direct care volunteers to report any such symptoms immediately to the administrator. Treatment for latent TB infection (LTBI) shall be considered in accordance with CDC and Department guidelines and, if recommended, treatment completion shall be encouraged.

c. Periodic testing (with TST or BAMT): Annually, of all private sitters who have risk of TB exposure and who have previous documented negative results. Instead of participating in periodic testing, private sitters with documented TB infection (positive TST or BAMT) shall provide the facility with written evidence of a symptom screen annually. Documentation of education about symptoms of TB disease (including responses concerning symptoms of TB disease) and written evidence of the questioning about the presence of symptoms of TB disease, and the report of any such symptoms shall be provided immediately to the facility administrator.

d. Post-exposure TST or a BAMT for staff/direct care volunteers upon unprotected exposure to *M. tuberculosis*: Perform a contact investigation (See Section 101.O) when unprotected exposure is identified. Administer one (1) TST or a BAMT as soon as possible to all staff/direct care volunteers/private sitters who have had unprotected exposure to an infectious TB case/suspect. If the TST or the BAMT result is negative, administer another TST or BAMT eight to ten (8 to 10) weeks after that exposure to *M. tuberculosis* ended.

e. Post exposure TST or a BAMT for private sitters upon unprotected exposure to *M. tuberculosis*: Written evidence of a contact investigation when unprotected exposure is identified shall be provided to the facility administrator. The private sitter shall provide documentation of a completed single TST or a BAMT prior to resident contact. If the TST or BAMT result is negative, the private sitter shall provide written evidence of an additional TST or BAMT eight to ten (8 to 10) weeks after that exposure to *M. tuberculosis* ended.

4. Baseline Positive or Newly Positive Test Result:

a. Baseline positive with or without documentation of treatment for latent TB infection (LTBI) or TB disease shall have a symptoms screen prior to employment and annually thereafter.

b. Upon hire, staff/direct care volunteers/private sitters with a newly positive test result for *M. tuberculosis* infection (*i.e.*, TST or BAMT) or signs or symptoms of tuberculosis, *e.g.*, cough, weight loss, night sweats, fever, shall have a chest radiograph performed immediately to exclude TB disease (or evaluate an interpretable copy taken within the previous three (3) months). Repeat chest radiographs are not required unless symptoms or signs of TB disease develop or unless recommended by a physician. These staff members/direct care volunteers/private sitters will be evaluated for the need for treatment of TB disease or latent TB infection (LTBI) and will be encouraged to follow the recommendations made by a physician with TB expertise (*i.e.*, the Department's TB Control program).

c. Staff/direct care volunteers/private sitters who are known or suspected to have TB disease shall be excluded from work, required to undergo evaluation by a physician, and permitted to return to work only with written approval by the Department's TB Control program. Repeat chest radiographs are not required unless symptoms or signs of TB disease develop or unless recommended by a physician.

E. Resident Tuberculosis Screening (I)

1. Tuberculosis Status. Prior to admission, the tuberculosis status of a resident shall be determined in the following manner in accordance with the applicable risk classification:

a. For Low Risk and Medium Risk:

1. Admission/Baseline two-step TST or a single BAMT: All residents within thirty (30) days prior to admission shall have completed the first step of the two step tuberculin skin test followed seven to twenty one (7 to 21) days later by a second test unless there is a documented TST or a BAMT result during the previous twelve (12) months. If a newly-admitted resident has had a documented negative TST or a BAMT result within the previous twelve (12) months, a single TST (or the single BAMT) can be administered within one (1) month prior to admission to the facility to serve as the baseline. As an exception, a resident may be admitted with at least the first step of the TB screening process completed prior to admission and the second step within fourteen (14) days of admission.

2. Periodic TST or BAMT is not required.

3. Post-exposure TST or a BAMT for residents upon unprotected exposure to *M. tuberculosis*: Perform a contact investigation when unprotected exposure is identified. Administer one (1) TST or a BAMT as soon as possible to all residents who have had exposure to an infectious TB case/suspect. If the TST or the BAMT result is negative, administer another TST or a BAMT eight to ten (8 to 10) weeks after that exposure to *M. tuberculosis* ended.

b. Baseline Positive or Newly Positive Test Result:

1. Residents with a baseline positive or newly positive test result for *M. tuberculosis* infection (*i.e.*, TST or BAMT) or documentation of treatment for latent TB infection (LTBI) or TB disease or signs or symptoms of tuberculosis, *e.g.*, cough, weight loss, night sweats, fever, shall have a chest radiograph performed immediately to exclude TB disease (or evaluate an interpretable copy taken within the previous three (3) months). Routine repeat chest radiographs are not required unless symptoms or signs of TB disease develop or unless recommended by a physician. These residents shall be evaluated for the need for treatment. If diagnosed with latent TB infection (LTBI) the resident shall be encouraged to follow the recommendations made by a physician with TB expertise (*i.e.*, the Department's TB Control program). For those residents diagnosed with TB disease, the facility shall assure that the affected residents follow the recommendations made by a physician with TB expertise (*i.e.*, the Department's TB Control program).

2. Residents who are known or suspected to have TB disease shall be transferred from the facility if the facility does not have an Airborne Infection Isolation room (See Section 101.F), required to undergo

158 FINAL REGULATIONS

evaluation by a physician, and permitted to return to the facility only with written approval by the Department's TB Control program.

F. Individuals who have been declared in writing to be in an emergency crisis stabilization status may be admitted to the facility without the initial step of the two-step tuberculin skin test and/or while awaiting the result of a BAMT. These individuals shall be placed in an area separate from the general population. This admission to the facility may be made provided:

1. There is documentation at the facility of the declaration by Adult Protective Services of the South Carolina Department of Social Services or the South Carolina Department of Mental Health that the admission is, in fact, an emergency (NOTE: Only these agencies may declare these crisis stabilization admissions to be an emergency);

2. There is written evidence of a chest x-ray within one (1) month prior to admission and a written assessment by a physician or other authorized healthcare provider that there is no active TB and a negative assessment for signs and/or symptoms of tuberculosis; and,

3. The resident will receive the initial step of the two-step tuberculin test within twenty-four (24) hours of admission to the facility. The second step of the two-step tuberculin skin test must be administered within the next seven to fourteen (7 to 14) days.

Section 1705. Pets (II)

Revise Section 1705.A to read:

A. If the facility chooses to permit pets, healthy animals that are free of fleas, ticks, and intestinal parasites and have been screened by a veterinarian prior to resident contact, have received required inoculations, if applicable, and that present no apparent threat to the health, safety, and well-being of the residents, may be permitted in the facility, provided they are sufficiently fed and cared for and that both the pets and their housing are kept clean.

SECTION 2200 – FIRE PROTECTION EQUIPMENT AND SYSTEMS

Section 2201. Firefighting Equipment (I).

Revise Section 2201.D to read:

D. The kitchen shall be equipped with a minimum of one 20-BC-type fire extinguisher. Facilities with commercial fixed hood extinguishing systems shall be provided with an additional fire extinguisher of the K class type.

Section 2207. Furnishings/Equipment (I).

Revise Section 2207.D to read:

D. Wastebaskets, window dressings, cubicle curtains, mattresses, and pillows shall be noncombustible, inherently flame-resistant, or treated or maintained flame-resistant in accordance with NFPA 701, Standard Methods of Fire Tests for Flame-Resistant Textiles and Films. As an exception, window blinds require no flame treatments.

Add Section 2207.E to read:

E. Smoking shall be allowed only in designated areas in accordance with the facility smoking policy. No smoking is permitted in resident rooms or staff bedrooms or bath/restrooms.

SECTION 2700 – PHYSICAL PLANT

Section 2702. Resident Rooms.

Revise Section 2702.J to read:

J. There shall be at least one (1) mirror in each resident room or resident bathroom. As an exception, when a resident's condition is such that having a mirror may be detrimental to his/her well-being, *e.g.*, agitation and confusion associated with Alzheimer's disease and/or related dementia, mirrors are not required.

Section 2704. Bathrooms/Restrooms (II).

Revise 2704 D to read:

D. There shall be at least one (1) handwash lavatory adjacent to each toilet. Liquid soap shall be provided in public restrooms and bathrooms used by more than one resident. Communal use of bar soap is prohibited. A sanitary individualized method of drying hands shall be available at each lavatory.

Section 2715. Telephone Service.

Revise Section 2715.A to read:

A. At least one (1) telephone shall be available on each floor of the facility with at least one (1) active main or fixed-line telephone service available.

Section 2717. Outdoor Areas.

Revise Section 2717.A to read:

A. Outdoor areas where unsafe, unprotected physical hazards exist shall be enclosed by a fence or a natural barrier of a size, shape, and density that effectively impedes travel to the hazardous area. (I)

Fiscal Impact Statement:

There will not be cost to the Department, the State and its political subdivisions.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: 61-84. Standards for Licensing Community Residential Care Facilities.

Purpose: This revision will update certain sections of the regulation that need to be addressed as determined by staff review. The Department proposes to amend Regulation 61-84 to update and enhance the following areas: definitions, *i.e.*, proposed new definitions of airborne infection isolation, blood assay for *Mycobacterium tuberculosis* (BAMT), contact investigation, incident, latent TB infection (LTBI), private sitter, quarterly and risk assessment; revision of definitions: annual, local transportation, and peak hours; Non-Departmental publications referenced in this regulation; compliance with structural and fire standards; the living quarters in the facility for individuals other than residents; application completion; the fiscal responsibilities of the

160 FINAL REGULATIONS

proposed facility licensee and facility licensee; license fees; Department reports availability; conditions affecting the determination of enforcement action; determination of monetary penalty amounts; appeal procedure for enforcement actions; facility responsibilities for written policies and procedures; a criminal background check for direct care staff; administrator licensing law; facility staff provision of care; staff training documentation and verification; staff provision of resident recreational activities; private sitters for residents (proposed new Section at 506); facility compliance with reporting of incidents; change of administrator reporting responsibilities; time period for notes of observation; age of resident photograph; resident assessment documentation requirements; criteria for resident admission and retention; documentation requirements for statement of resident rights and grievance procedures; resident finances fiscal management documentation; resident use of telephone; content of resident physical examination; medication and first aid items availability; medication and treatment orders; time period for physician signing verbal orders; documentation of treatments; clarification of unit dose system; refrigeration of medications; documentation of controlled substances; menu approvals for medically prescribed diets; facility staff use of alcohol-based hand sanitizers; counties affected by letter of agreement for sheltering facilities; documentation of continuity of essential services; resident fire response training; tuberculin skin testing for residents and staff; health screening for facility pets; kitchen firefighting equipment; non-combustible or flame retardant materials; facility 'no smoking' areas; mirrors in resident rooms; use of bar soap in shared bathrooms; facility telephones for resident use; and barriers to natural or manmade bodies of water on or adjacent to the facility property. Additionally, changes will be proposed throughout the regulation to improve its overall quality, *i.e.*, stylistic changes and language clarifications. The table of contents will be updated, and other minor corrections will be proposed as needed. See Determination of Need and Reasonableness below.

Legal Authority: Section 44-7-250, S.C. Code of Laws (1976, as amended).

Plan for Implementation: This revision will take effect upon publication in the *State Register* following approval by the Board and the General Assembly. The revision will be implemented by providing the regulated community with copies of the regulation and enforced through inspections by DHEC.

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

This regulation revision is needed and reasonable because its development will satisfy a legislative mandate pursuant to S.C. Code Ann. Section 1-23-120.

The regulation was last amended July 27, 2001. Since that time there have been changes in applicable laws, *e.g.*, criminal record checks of direct care staff, and there have been certain guidelines, directives, interpretations, and changes in Division policy that have led to the necessity to amend these regulations in order to make them more up-to-date. The amendment is needed and reasonable because it will clarify/add to the current regulation in a manner that will improve methods to provide quality care and services to residents, and it will update the current regulation by incorporating certain exceptions/guidances that the Department has implemented since the last revision.

DETERMINATION OF COSTS AND BENEFITS:

There will be no cost to political subdivisions of the state.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment. The regulation revision will promote public health by updating standards for regulating community residential care facilities.

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

There will be an adverse effect on the public health if the regulation revision is not implemented since it is likely that continuing to utilize an outdated regulation for regulatory purposes would not advance the promotion of preventing negative health outcomes. There will be possible detrimental effect on public health in general and vulnerable adults specifically because the program will not have the resources to continue vigilant regulatory oversight of community residential care facilities in a timely, effective and efficient manner.

Statement of Rationale:

Department staff determined during its review of R.61-84 that it was appropriate to revise the regulation. R.61-84 was last amended in 2001. See the Statement of Determination of Need and Reasonableness above for more information regarding the factors influencing the Department staff decision to revise the regulation.

Document No. 4121
DEPARTMENT OF INSURANCE
CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-10 et seq., 38-2-10, 38-3-110(2), 38-39-60, 38-43-80, 38-43-130, 38-45-50, 38-47-40, 38-48-160, 38-49-20, 38-53-20, 38-70-50 and 38-78-110

69-23. Agents and Agency Licenses

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-23, Agents and Agency Licenses. The amendments to Regulation 69-23 will update terminology and clarify the requirements related to licenses issued by the Department. The amendments will also allow the Department to be uniform with the National Association of Insurance Commissioners (NAIC) standards. This will benefit South Carolina licensees to have their state of domicile in compliance with national standards which will speed up their licensing process in other states.

The Notice of Drafting for the proposed regulation was published in the *South Carolina State Register* on July 24, 2009.

Instructions:

Amend Regulation 69-23 as drafted below and add to the South Carolina Code of Regulations.

Text:

69-23. Adjuster, Public Adjuster, Appraiser, Broker, Bondsmen, Runner, Producer and Agency Licenses.

Section I. Purpose

The purpose of this regulation is to specify requirements related to licenses issued by the Department.

162 FINAL REGULATIONS

Section II. Licenses required for each agency

A. Each agency, as defined in Section 38-1-20(26) of the 1976 Code, as amended, shall make application for licensure to the director or his designee on the Uniform Business Entity Application and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct, and complete to the best of the applicant's knowledge and belief. This applies to each corporation, association, partnership, limited liability company, limited liability partnership, or other business entity in which more than one person has a financial interest or which operates under a corporate or trade name. The requirement for an agency license does not apply to any agency owned by, and operated under the name of, an individual licensed producer, so long as no other person, firm or entity has any interest in, or affiliation with, the business of the individual producer or his agency.

B. No such agency shall be licensed under a name which is likely to lead a person of average intelligence to believe that the agency is an insurer, an agency of any government, or a club, fraternity, association or social or military organization, or which is otherwise deceptive or misleading. Foreign corporations, limited partnerships and any other entities are required by law to be registered with the South Carolina Secretary of State's Office.

C. The agency is required to submit the application to the Department of Insurance and to pay the required fee; however, each insurer is required to notify all its agencies of their responsibility to file an agency application and to pay the required fee. Only one agency license is required for each agency regardless of the number of insurers it represents or the number of locations. At any time that an agency has no stockholder, officer, director, member, employee or associate possessing a current, active individual producer's license, the agency license shall be deemed terminated.

Section III. Citizenship requirements for Producers, Adjusters, Public Adjusters, Appraisers, Brokers, Bondsmen, and Runners

A. Producers. Only natural persons may be licensed and appointed as producers to represent an insurance company. The applicant shall be a citizen of the United States or provide documentation that the applicant is a properly registered alien residing in the United States.

B. Adjusters, Public Adjusters, Appraisers, Brokers, Bondsmen and Runners. The applicant shall be a citizen of the United States or provide documentation that the applicant is a properly registered alien residing in the United States.

Section IV. Appointments

After becoming licensed, producers must be appointed by an insurer licensed in the State for the kinds of insurance for which the applicant is licensed and seeks to transact business. Every such appointing insurer is accountable for the accuracy and veracity of the certification of the applicant's reputation and trustworthiness. Information obtained from commercial reporting sources concerning the reputation of an applicant must be retained by the appointing insurer for at least five (5) years and shall be made available to the Department of Insurance upon request made by the Department.

Section V. Successful Completion of Examination

A. Producers. An applicant for licensure as a resident producer shall stand a written examination.

B. Adjusters. So as to assure himself that applicants for an adjuster's license under Code Section 38-47-10 have sufficient knowledge of the insurance business, the Director will require those applicants to stand a written examination.

(1) An adjuster applicant holding a designation as Chartered Property and Casualty Underwriter (CPCU) or Chartered Life Underwriter (CLU) relevant to the kinds of insurance for which he seeks authority shall not be required to stand a written examination prior to being issued a license.

(2) Nonresident applicants for an adjuster's license who are licensed in their home state or any other state requiring a licensing examination shall not be required to stand a written examination prior to being issued a license.

(3) If an applicant not currently licensed was previously licensed in respect to the kinds of insurance for which he seeks a license within the immediately preceding ninety days, and such license was not suspended, canceled or revoked, the Director may waive the requirement of a written examination.

C. Public Adjusters, Appraisers, Bondsmen, Runners and Brokers shall take written examinations as provided for by statute.

D. Applicants scoring at least seventy (70) points on the examination will be issued a certificate to signify successful completion of the examination, which certificate shall be valid for twelve months only. Upon submission of such certificate to the Department of Insurance, and upon the applicant's meeting all requirements to become licensed, the appropriate license will be issued.

E. Applicants scoring less than seventy (70) points shall be deemed to have failed the examination. An applicant may take each examination six (6) times during any twelve month period, upon complying with all applicable registration, fee and test procedure requirements.

Section VI. Absence of criminal record

A. Producers. An insurance company is required to investigate the "character and record" of a person whom the company wishes to appoint as its producer, and to vouch for the trustworthiness and qualifications of such person to act as an appointed producer for the insurer. In determining whether an individual is eligible to be licensed as an insurance producer, the Director must, among other things, consider whether the individual has been convicted of, or pleaded guilty or nolo contendere to, a crime involving moral turpitude. Every applicant for a producer's license must provide a copy of his criminal history record to the Director when applying for a license. The Director must also consider whether the individual has had an insurance producer license, or its equivalent, denied, suspended, or revoked in this state or another state, province, district, or territory.

B. Adjusters, Public Adjusters, Appraisers, Bondsmen, Runners and Brokers. The Director must be satisfied that a person applying for a license is of good moral character, has not violated any of the insurance laws of this State or any other state, and is a fit and proper person for a license. So as to permit the Director to make such a determination, every applicant for a license must provide a copy of his criminal history record to the Director when applying for a license. The Director must also consider whether the individual has had a license, or its equivalent, denied, suspended, or revoked in this state or another state, province, district, or territory.

Section VII. Special requirements for variable contracts licensing

In order to be licensed to sell either variable life insurance or variable annuities, an applicant must meet the following requirements:

(1) The applicant must furnish evidence that he has passed a securities examination administered by the National Association of Securities Dealers (NASD), the Securities and Exchange Commission (SEC) or the Securities Commissioner of South Carolina;

(2) The applicant must furnish evidence that he has passed a variable contracts examination. The variable contracts examination may be waived if the applicant furnishes evidence that he has passed the NASD Series 6 or Series 7 examination or any other examination which in the opinion of the Director sufficiently tests the applicant's knowledge of variable contracts.

Fiscal Impact Statement:

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

Statement of Rationale:

The Agents and Agency Licenses regulation is being updated to provide guidance to licensees of the Department and to reflect the statutory amendments enacted since the regulation was last amended in 1988. The amendments to the regulation are needed to clarify and update the requirements for licensees of the Department.

Document No. 4102
DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF STATE FIRE MARSHAL
CHAPTER 71

Statutory Authority: 1976 Code Sections 23-9-40 and 23-9-45

71-8303. Portable Fire Extinguishers and Fixed Fire Extinguishing Systems

Synopsis:

The Office of State Fire Marshal is amending Regulations 71-8303.4, 71-8303.5, 71-8303.8, 71-8303.12, and 71-8303.13 regarding Portable Fire Extinguishers and Fixed Fire Extinguishing Systems by updating the language and clarifying requirements with current industry standards.

The Notice of Drafting was published in the *State Register* on September 25, 2009.

Instructions:

Replace Regulation 71-8303.4. (Licensing and Permitting Requirements) as printed below.
Replace Regulation 71-8303.5. (Renewal of Licenses and Permits) as printed below.
Replace Regulation 71-8303.8. (Installation and Maintenance Procedures) as printed below.
Replace Regulation 71-8303.12. (Administrative Sanctions) as printed below.
Replace Regulation 71-8303.13. (Sanctions for Unlawful Practice) as printed below.

Text:

71-8303. Portable Fire Extinguishers and Fixed Fire Extinguishing Systems.

71-8303.4. Licensing and Permitting Requirements.

A. General Licensing Requirements.

1. Each firm testing and servicing portable fire extinguishers; installing, testing, and servicing fixed fire extinguishing systems; or hydrostatic testing portable fire extinguishers or portions of fixed fire extinguishing systems must have a license issued by the Office of State Fire Marshal.

2. Each firm's license shall be displayed in a conspicuous location at their place of business.

3. Each firm shall apply in writing on a form available from the Office of State Fire Marshal, for the license classification the firm is seeking.

4. Each firm shall furnish a certificate of insurance with their application in the amount required for their license classification. The firm shall list the State of South Carolina and its agents as additional insured. The coverage company must be an insurer which is either licensed by the Department of Insurance in this State or approved by the Department of Insurance as a nonadmitted surplus lines carrier for risks located in this State. In the event the liability insurance is canceled, suspended, or not renewed, the insurer shall give immediate notice to the Office of State Fire Marshal.

5. Each firm shall possess the equipment required for the class of license sought. The State Fire Marshal shall inspect the firm's facilities to verify the firm has the minimum required equipment. The State Fire Marshal shall not license a firm until deficiencies discovered by inspection are corrected.

6. Licenses issued under this subarticle are not transferable.

7. All licenses expire when insurance coverage lapses or is cancelled and on the day of expiration shown on the license and shall be renewed biennially.

8. Expired licenses shall not be renewed. A new license shall be obtained by complying with all requirements and procedures for an original license.

B. General Permitting Requirements.

1. Each individual servicing, recharging, repairing, installing, or testing portable fire extinguishers or fixed fire extinguishing systems shall possess a valid permit issued by the Office of State Fire Marshal.
2. Each individual shall apply in writing on a form available from the Office of State Fire Marshal, for the permit classification they are seeking.
3. Applicants must provide two current 2" by 2" photographs with their application.
4. Applicants must be at least eighteen (18) years old.
5. Applicants shall pass a written examination administered by the Office of State Fire Marshal before a permit is issued. The exam will cover the applicable codes, state laws, and regulations and the additional requirements for the specific class of permit for which they are applying.
6. Any applicant who fails the written examination is allowed one (1) re-test after a minimum seven-day waiting period. Any applicant who fails the re-test shall wait at least six (6) months before reapplying.
7. Permit holders shall have their permits in their possession while working on equipment or systems covered by their permit.
8. Permit holders shall show their permits on the request of any authority having jurisdiction.
9. Permit holders shall be limited to specific type of work allowed by the class of permit they hold and the specific systems covered by their permit.
10. Permits issued under this subarticle are not transferable.
11. Permits shall expire on the day of expiration shown on the permit and shall be renewed biennially.
12. Expired permits shall not be renewed. A new permit shall be obtained by complying with all requirements and procedures for an original permit.

C. License and Permit Classifications.

1. Class "A" - may service, recharge, or repair, all types of portable fire extinguishers, including recharging carbon dioxide units; and to conduct hydrostatic tests on all types of fire extinguishers.
2. Class "B" - may service, recharge, or repair all types of portable fire extinguishers, including recharging carbon dioxide units and conducting hydrostatic tests on water, water chemical, and dry chemical types of extinguishers only.
3. Class "C" - may service, recharge, or repair all types of portable fire extinguishers, except recharging carbon dioxide units; and to conduct hydrostatic tests of water, water chemical, and dry chemical types of fire extinguishers only.
4. Class "D" - may service, recharge, repair, or install all types of fixed fire extinguishing systems.
5. Class "E" is an apprentice permit classification only. Permits in this classification may perform the services only under direct supervision of a person holding a valid permit and who works for the same firm as the apprentice. An apprentice permit is valid for one (1) year from the day of issuance and may not be renewed.

D. Firms applying for a Class "A", "B", or "C" License must meet all of the general requirements for licensing and provide proof of public liability insurance for an amount not less than one million (\$1,000,000) dollars.

E. Firms applying for a Class "D" License must:

1. Designate on their application for licensing each type of fixed fire-extinguishing system for which they want to be licensed;
2. Provide proof of public liability insurance for an amount not less than one million (\$1,000,000) dollars; and
3. Provide proof of manufacturer's certification for at least one type of fixed fire extinguishing system.
4. For each additional type of preengineered fire extinguishing system, the applicant may submit proof of a manufacturer's certification or an affidavit which shall attest to the ability to obtain the proper manufacturer's installation, maintenance and service manuals and manufacturer's parts or alternative components that are listed for use with the specific extinguishing system and provide testament that all installations and maintenance shall be performed in complete compliance with the manufacturer's installation, maintenance and service manuals and NFPA standards.

F. Individuals applying for a Class "A", "B", or "C" Permit must meet all of the general requirements.

G. Individuals applying for a Class "D" Permit must:

1. Designate on their application for licensing each type of fixed fire-extinguishing system for which they want to be permitted.

166 FINAL REGULATIONS

2. Provide proof of manufacturer's certification for at least one type of fixed fire extinguishing system.

3. For each additional type of preengineered fire extinguishing system, the applicant may submit proof of a manufacturer's certification or an affidavit which shall attest to the ability to obtain the proper manufacturer's installation, maintenance and service manuals and manufacturer's parts or alternative components that are listed for use with the specific extinguishing system and provide testament that all installations and maintenance shall be performed in complete compliance with the manufacturer's installation, maintenance and service manuals and NFPA standards.

H. Employees applying for a Class "E" Permit must file an application for a Class "E" Permit and provide two current 2" by 2" photographs.

71-8303.5. Renewal of Licenses and Permits.

A. To qualify for biennial renewal of a Class "A", "B" or "C" license, a firm must:

1. Apply in writing on a form available from the Office of State Fire Marshal designating the Class of license sought;

2. Provide proof of public liability insurance.

B. To qualify for biennial renewal of a Class "A", "B" or "C" permit, an individual must:

1. Apply in writing on a form available from the Office of State Fire Marshal, designating the permit classification they are seeking.

C. To qualify for biennial renewal of a Class D license, a firm must:

1. Apply in writing on a form available from the Office of State Fire Marshal, designating each type of fixed fire-extinguishing system for which they wish to be licensed to install, test, or service;

2. Provide proof of public liability insurance;

3. Provide proof of manufacturer's certification for at least one type of fixed fire extinguishing system;

4. For each additional type of preengineered fire extinguishing system, the applicant may submit proof of a manufacturer's certification or an affidavit which shall attest to the ability to obtain the proper manufacturer's installation, maintenance and service manuals and manufacturer's parts or alternative components that are listed for use with the specific extinguishing system and provide testament that all installations and maintenance shall be performed in complete compliance with the manufacturer's installation, maintenance and service manuals and NFPA standards.

D. To qualify for biennial renewal of a Class D permit, an individual must:

1. Apply in writing on a form available from the Office of State Fire Marshal, designating each type of fixed fire-extinguishing system for which they wish to be permitted to install, test, or service;

2. Provide an up to date manufacturers training certificate for each type pre engineered system that renewal is sought;

3. Provide an affidavit to attest to the applicant's ability to obtain the proper manufacturer's installation, maintenance and service manuals and manufacturer's parts or alternative components that are listed for use with the specific extinguishing system and provide testament that all installations and maintenance shall be performed in complete compliance with the manufacturer's installation, maintenance and service manuals.

71-8303.8. Installation and Maintenance Procedures.

A. All Portable Fire Extinguishers and Fixed Fire Extinguishing Systems covered by these regulations shall be installed, inspected, tested and serviced per the applicable NFPA standards and the manufacturer's installation, service and maintenance manuals.

B. Any portable fire extinguisher or fixed fire extinguishing system that cannot be maintained per the manufacturer's installation, service, and maintenance manuals or the applicable NFPA standards shall be removed from service and replaced.

C. Tamper seals on all portable fire extinguishers shall be imprinted with the year. The year imprinted on the tamper seal shall match the date on the maintenance tag for portable fire extinguisher servicing and maintenance.

71-8303.12. Administrative Sanctions.

A. If after an investigation it appears that the license or permit holder under this regulation has become unfit to practice or has violated these regulations, the State Fire Marshal shall file a Petition with the Administrative Law Court stating the facts and the particular statutes and regulations at issue.

B. The Administrative Law Court may, after opportunity for hearing, order that the license or permit be revoked, suspended, or otherwise disciplined on the grounds that the license or permit holder:

1. Used a false, fraudulent, or forged statement or document in obtaining a license or permit under this chapter; or
2. Committed a fraudulent, deceitful, or dishonest act or omitted a material fact in obtaining a license or permit under this chapter; or
3. Has had an authorization to practice a regulated profession or occupation in another state or jurisdiction canceled, revoked or suspended, or has otherwise been disciplined by another jurisdiction; or
4. Has intentionally used a fraudulent statement in a document connected with the license or permit; or
5. Obtained fees or assisted in obtaining fees under fraudulent circumstances; or
6. Sustained a physical or mental disability or uses alcohol or drugs to such a degree as to render further practice as a Fire Equipment Dealer dangerous to the public; or
7. Failed to perform all installation, service, and testing in complete compliance with the manufacturer's manuals.

71-8303.13. Sanctions for Unlawful Practice.

A. The Administrative Law Court may, after opportunity for hearing, order injunctive relief against a person who, without possessing a valid license or permit under this chapter, practices or offers to practice or uses the title or term Fire Equipment Dealer. For each violation, the administrative law judge may impose a fine of no more than ten thousand (\$10,000) dollars.

B. A person who does not hold a license or permit as required by this Chapter, may not bring any action either at law or in equity to enforce the provisions of any contract for providing services as a Fire Equipment Dealer.

Fiscal Impact Statement:

There will be no additional cost incurred by the State or any political subdivision.

Statement of Rationale:

The amendments are made in response to an industry showing that there are sufficient similarities between Class D systems from different manufacturers that formal training on each system is not necessary to the public safety which can be protected by a showing that the licensee has appropriate reference materials and access to appropriate parts.

Document No. 4103
MANUFACTURED HOUSING BOARD
CHAPTER 79

Statutory Authority: 1976 Code Sections 40-1-70 and 40-29-10

79-2. License Classifications
79-3. License Application Requirements
79-19. Salesperson
79-26. Fees

Synopsis:

To satisfy the requirements of licensure in the field of manufactured housing, Regulations 79-2, 79-3, 79-19 and 79-26 must be revised and updated in conformance with the current Manufactured Housing Board Practice Act.

The Notice of Drafting was published in the *State Register* on September 25, 2009.

Instructions:

Replace Regulation 79-2. (License Classifications) as printed below.
Replace Regulation 79-3. (License Application Requirements) as printed below.
Replace Regulation 79-19. (Salesperson) as printed below.
Replace Regulation 79-26. (Fees) as printed below.

Text:

79-2. License Classifications.

Any person, prior to engaging in any business regulated by the Act, shall obtain a license in accordance with the Act and these Regulations. The South Carolina Manufactured Housing Board shall issue licenses in the following classifications:

- (1) Manufactured Home Manufacturer, hereinafter referred to as Manufacturer;
- (2) Manufactured Home Retail Dealer, hereinafter referred to as Retail Dealer;
- (3) Manufactured Home Retail Salesperson, hereinafter referred to as Salesperson;
- (4) Manufactured Home Retail Multi-Lot Salesperson, hereinafter referred to as Multi-lot Salesperson;
- (5) Manufactured Home Apprentice Salesperson, hereinafter referred to as Apprentice salesperson;
- (6) Manufactured Home Show Permit/Temporary;
- (7) Manufactured Home Installer, hereinafter referred to as Installer;
- (8) Manufactured Home Repairer, hereinafter referred to as Repairer; and
- (9) Manufactured Home Contractor, hereinafter referred to as Contractor.

79-3. License Application Requirements.

- (A) Applications for manufactured housing license shall contain but not be limited to the following:
- (1) Each applicant for license shall have attained the age of eighteen (18);
 - (2) The name of the person or business applicant;
 - (3) The address of applicant (residence);
 - (4) The mailing address and physical location of the business;
 - (5) Date of birth of applicant;
 - (6) The name of the state under whose laws the firm or corporation is organized or incorporated;
 - (7) The name and address of previous employers for the past seven years;

(8) A statement of the previous history of each owner, partners, or officers of a corporation to establish knowledge of reputation for the past seven years;

(9) Appropriate fees;

(10) Appropriate surety bond or other approved security, provided for the length of the license; and

(11) Criminal Background Check for every state of residence for the past seven years.

(B) A person previously licensed as a sales person or multi-lot sales person who applies for a new sales or multi-lot sales license must provide the name of every dealership for which previously employed and the reasons for leaving employment.

(C) The application shall contain such other information as may be required by the Board.

(D) A manufactured housing apprentice salesperson's license application shall contain the following:

(1) Each applicant shall have attained the age of eighteen (18);

(2) The name of applicant;

(3) The residential address of applicant;

(4) The mailing address and physician location of the business;

(5) Date of birth of applicant;

(6) The name and address of previous employers for the past seven (7) years;

(7) Appropriate fees; and

(8) Criminal background check for every state of residence for the past seven (7) years.

79-19. Salesperson.

(A) A salesperson's license entitles its holder to be employed for remuneration or consideration by a retail dealer to engage in the sale of new and/or pre-owned manufactured homes through that retail dealer.

(B) Each salesperson must be licensed individually.

(C) No salesperson shall offer for sale or sell manufactured homes in the State until receipt of a license from the Department.

(D) When doing business in this state, each salesperson shall be able to present a license on request.

(E) Change of Employment.

(1) When a licensed salesperson is discharged or changes place of employment, the retail dealer shall notify the Department within ten (10) days, by letter reporting such termination and the reason for termination and furnish a forwarding address if known, for the salesperson.

(a) The notice must specify the reason for the change in status, e.g., discharge.

(b) The communication by the retail dealer to the Department is privileged and subject to the provisions of S.C. Code Ann. Sec. 40-1-190 (Supp. 1996).

(2) The salesperson must notify the Department within twenty (20) days when no longer employed with the retail dealer identified on the license record and must complete an application, state the reason for termination and provide proof of surety bond or other approved security coverage at new location if the salesperson is to be employed with another licensed retail dealer.

(F) A salesperson shall not be employed by or conduct transactions for more than one retail dealer at the same time, except if the salesperson is licensed as a multi-lot salesperson as described in 79-20.

(G) All transactions handled by or involving a salesperson must be reviewed and supervised by the licensed employing retail dealer. That retail dealer must review all documents prepared by the salesperson in a transaction.

(H) Apprentice Salesperson.

(1) An apprentice salesperson's license entitles its holder to sell manufactured homes under the direct supervision of a licensed retail dealer for a period not to exceed one hundred and twenty (120) days from date of issuance.

(2) An apprentice salesperson's license is not renewable and at the date of expiration the apprentice salesperson must meet the requirements for licensure as a salesperson or multi-lot salesperson.

(3) An individual that has previously held a dealer's, salesperson's, or multi-lot salesperson's license is not eligible for the apprentice salesperson's license.

(4) The dealer shall notify the department at the end of the one hundred and twenty (120) day period that the apprentice salesperson has obtained the required license or is no longer employed by the dealership.

170 FINAL REGULATIONS

79-26. Fees.

- (A) All fees are payable in advance and must be accompanied by an application.
- (B) Fees shall not be refunded.
- (C) When applicable, the examination fee is fifty (\$50.00) dollars.
- (D) Licensing fees: Licensing fee for a two (2) year license:
 - (1) Manufacturer: Three hundred (\$300.00) dollars;
 - (2) Retail Dealer: One hundred (\$100.00) dollars;
 - (3) Salesperson: Fifty (\$50.00) dollars;
 - (4) Multi-Lot Salesperson: One hundred (\$100.00) dollars;
 - (5) Apprentice Salesperson: Fifty (\$50.00) dollars;
 - (6) Installers: One hundred (\$100.00) dollars;
 - (7) Repairers: One hundred (\$100.00) dollars;
 - (8) Contractors: One hundred (\$100.00) dollars.
- (E) Fees for applications received with one (1) year or less remaining in the current licensing cycle will be based on one half of the two year licensing fee.
- (F) Permits for Manufactured Home Shows: One hundred dollars per location.
- (G) License Application Update/Duplicate: Ten dollars.
- (H) Credit Report: Ten dollars per report.
- (I) Late Fees: Twenty-five dollars per month.
- (J) Removal of red tag(s): Fifty dollars per tag.
- (K) The Department will charge a fee of fifty dollars each time a reinspection is performed on a manufactured home that is involved in a complaint. The fee will be charged to the dealer, manufacturer, installer, repairer or contractor as appropriate. If more than one entity is responsible for the reinspection, the fee will be prorated. If a reinspection reveals that all complaint items have been satisfied, no fee will be charged to any licensee. If it is determined by the Board that a reinspection requested by a consumer is frivolous or without basis, the fee will be charged to the consumer.

Fiscal Impact Statement:

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

Statement of Rationale:

These regulations are updated in conformance with the current Manufactured Housing Board Practice Act.

Document No. 4110
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123
Statutory Authority: 1976 Code Sections 50-11-2200 and 50-11-2210

123-200 through 123-210. Regulation of Real Property Owned and Leased by the Department

Synopsis:

These regulations amend Chapter 123-200 through 123-210 remove the activities previously prohibited by regulation that are now prohibited by Statute (Act No. 63 of 2009) and clarify use restrictions now allowed through regulation.

The Notice of Drafting for this regulation was published on July 24, 2009 in the *South Carolina State Register* Volume 33, Issue No. 7.

Instructions: Amend Regulations 123-200 through 123-210.

Text:

ARTICLE 5.5

REGULATION OF REAL PROPERTY OWNED AND LEASED BY THE DEPARTMENT

Statutory Authority: S.C. Code Sections 50-11-2200, 50-11-2210 and 50-11-2215

123-200. Regulations Applicable to Wildlife Management Areas, Heritage Preserves and other lands owned by the Department of Natural Resources.

Applicability and Scope.

A. The purpose of this regulation is to govern the conduct and activities of visitors to Wildlife Management Areas, Heritage Preserves and other lands owned or leased by the Department of Natural Resources. This regulation applies to all property owned or leased by the Department of Natural Resources, including but not limited to wildlife management areas, heritage preserves, boat landings, and game preserves or reserves. Consistent with the restriction in Section 50-11-2215, the application of this regulation shall not interfere with the use and management of lands by a state agency charged with the management of those lands as part of the functions of the agency authorized by law or with the management and use by a landowner of his lands within the Wildlife Management Area program. Application of this regulation to privately owned lands is limited to those matters, uses, profits, or activities which the Department has acquired through lease or other authorized means.

B. Regulations for the establishment of open and closed seasons, bag limits, and methods for hunting and taking wildlife on all Department owned wildlife management area lands, and for the protection, preservation, operation, maintenance, and use of wildlife management area lands not owned by the Department are stated in R.123-40. The regulations below will apply to wildlife management area lands in addition to R.123-40. In case of any conflict with R.123-40, this regulation will prevail.

123-201. Definitions.

For purposes of this regulation:

“All terrain vehicle” means a motorized vehicle, regardless of the number of wheels, designed or constructed primarily for use off of paved or improved roads.

“Boats” mean any watercraft, including but not limited to motorboats, sailboats, personal watercraft, canoes, kayaks, sailboards, rafts, inflatable boats, shells, and rowboats.

“Camping” means the overnight occupancy of land owned or leased by the Department.

“Department” means the South Carolina Department of Natural Resources.

“Department land” means real property, including any buildings, structures, or improvements, owned by the Department in fee simple, including but not limited to game preserves or reserves, heritage preserves, boat landings, and Department land designated as wildlife management area land.

“Ecofacts” are carbonized plant remains, animal bones, and shells utilized as food by historic and prehistoric peoples. “Fireworks” means any device for producing any display, such as light, noise, or smoke, by the combustion of explosive or flammable compositions.

“Fishing” means all activity and effort involved in taking or attempting to take fish.

“Hiking” means traversing land by foot for the purpose of pleasure or exercise, except traversing in connection with any other activity regulated by this regulation.

“Horse riding” means any equestrian activity.

“Hunting” means the act of trying to find, seek, obtain, pursue, or diligently search for wildlife for sport, regardless of whether wildlife is taken or not. The act of seeking wildlife or the pursuit of wildlife as sport, such as but not limited to raccoon hunting and training hunting dogs shall be deemed hunting. Any person accompanying a hunter or hunters and participating in a hunt in any regard shall be deemed to be hunting.

172 FINAL REGULATIONS

“Motorized vehicle” means a device incorporating a motor or an engine. “Nonmotorized vehicle” means a device not incorporating a motor or an engine of any type for propulsion, and with wheels, tracks, skids, skis, air cushion, or other contrivance for traveling on or adjacent to land. It shall include such vehicles as bicycles, skates, and in-line skates.

“Off road vehicle” means a motorized vehicle that includes stock enhancements to improve its ability for use off of paved or improved roads or a vehicle that has been modified from its stock condition to enhance its ability for use off of paved or improved roads.

“Pack animal” means any beast, including but not limited to horses, mules, donkeys, and llamas, used for the purpose of transporting equipment, gear, or other articles.

“Pets” mean any domesticated animal which is kept for the pleasure of the owner; however, for purposes of this regulation, pets may not include dangerous or venomous animals or any animal classified as threatened, endangered, or in need of management by any state or the federal government. A raptor, permitted as provided under R.123-170, will be deemed a pet.

“Pollution” or “polluting” means the direct or indirect act of throwing, draining, depositing, or otherwise discharging organic or inorganic matter in or on land.

“Primitive Camping” means the overnight occupancy of land, utilizing nothing more than temporary shelter such as a tent or tarp transported to the camping site by backpacking or by watercraft.

“Rock climbing” means the sport of ascending or descending rock faces of such vertical angle that the climber must use technical climbing techniques to safely negotiate the climb. This includes all free, aided, and friction climbing where ropes, pitons, nuts, chocks, screws, carabiners, snap links, chalk, ropes, fixed or removable anchors, or other similar climbing equipment is used.

“Rocks, artifacts, or ecofacts” shall include but not be limited to arrowheads, spear points, scrapers, drills, soapstone and soapstone objects, pottery sherds and vessels, bottles, beads, brick, tabby, metal objects (such as buttons, buckles, ordnance, insignia), charcoal, shells, plant remains, animal remains, and bone tools.

“Shells” mean the hard rigid, usually calcareous, covering of an animal.

“Specialty animals” mean all animals other than domestic pets; those native and imported animals which have been removed from the wild and are being bred, raised or kept for research, food, fur or skins, or for the production of income. Reptiles and amphibians are included in this category. “Service animals” are not considered “Specialty animals”.

“Taking” means to shoot, wound, kill, trap, capture, or collect, or attempt to shoot, wound, kill, trap, capture, or collect any wildlife.

“Weapon” means an instrument of offensive or defensive combat, including firearms, capable of injuring human beings or animals; provided, however, implements such as small pocket or kitchen knives normally will not be considered as weapons.

“Wildlife” means all wild birds, wild game, fish, and any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other wild animal not otherwise legally classified by statute or regulation of this State as a game species.

“Wildlife management area land” means those lands leased or otherwise established by the Department for the protection, propagation, and promotion of fish and wildlife and for public hunting and fishing.

123-202. Hazard of Outdoor Activities and Liability.

Department land is made available to the general public for reasonable uses not prohibited by statute or regulation. These lands are held and maintained in a natural condition, except for uses requiring modification. Outdoor activities are not risk free. All members of the public using Department land and wildlife management area land must exercise due care in planning and carrying out any activities. Any person making use of Department land and wildlife management area land for any purpose does so at his own risk, and the Department shall not be liable in any respect for any loss, damage, or injury to person or property caused or occasioned thereby.

123-203. General Regulation.

This section shall apply to all Wildlife Management Areas, Heritage Preserves and other lands owned by the Department.

A. Hunting, fishing, and taking game animals, birds, fish, or other wildlife is allowed on Wildlife Management Areas that have been designated as part of the Wildlife Management Area program. Hunting, fishing, and taking shall be subject to all applicable statutes and regulations, specifically including R.123-40.

B. All firearms must be unloaded and secured in a weapons case except while legally hunting, unless otherwise legally permitted. Target, skeet, trap, plinking, , or any other type of shooting with any firearm or weapon is allowed on designated shooting ranges. Except as otherwise specifically authorized by South Carolina statute or this regulation, weapons and firearms are not allowed on any heritage preserve. Possession of a weapon or firearm is allowed on any heritage preserve designated by the Department as a wildlife management area subject to the regulations.

C. Hiking is allowed subject to the following restrictions or conditions:

- (1) Hiking is allowed. The Department may post or place signs declaring any area closed to hiking;
- (2) The use of all designated hiking trails, except for posted multi-use trails is restricted solely to foot travel and the legitimate activities associated with the pursuit of hiking.

D. Operation of motorized, nonmotorized vehicles, all terrain vehicles, and off road vehicles.

The operation of motorized vehicles is allowed subject to the following restrictions or conditions:

(1) Motorized vehicles, all terrain vehicles, and off road vehicles may be operated only on open maintained roads and parking areas except as otherwise established by posted notice or as approved by the Department. All terrain vehicles are not allowed on any heritage preserve.

(2) Motorized vehicles, all terrain vehicles, and off road vehicles shall not exceed speed limits posted on Department signs.

(3) No person may operate any motorized, all terrain vehicle, off road vehicle or non-motorized vehicle in a reckless or negligent manner. The operation of any vehicle in such a manner as to indicate either a willful or wanton disregard for the safety of persons or property shall be deemed to be operating in a reckless manner.

(4) The operation of motorized vehicles, all terrain vehicles, and off road vehicles must comply with any posting or signs. Obstructing vehicular traffic is not allowed.

(5) All motorized vehicles, all terrain vehicles, and off road vehicles must be equipped with properly working mufflers, brakes, mirrors and spark arresters (if the vehicle was originally factory equipped with spark arresters and/or mirrors).

(6) Charter buses or other vehicles engaged in transporting persons for compensation are only allowed by permit.

(7) The numbers of motorized vehicles, nonmotorized vehicles, horses, or boats allowed on any area at one time may be limited by the Department through a permitting system.

(8) The operation of nonmotorized vehicles are allowed subject to the following restrictions or conditions:

(a) Bicycles may be ridden on roads open to motorized vehicles, established roadbeds and designated bicycle trails unless otherwise posted.

(b) Using roller skates, in-line skates, skateboards, roller skis, coasting vehicles, or similar devices is allowed only in designated areas.

E. Swimming .

Swimming is allowed only in designated areas, which includes any State or federal navigable waterway abutting or flowing through Department land.

F. Camping.

(1) Camping is allowed only within areas designated as campsites by the Department. The Department will designate campsites by placement of signs or by other means such as maps or brochures.

(2) Camping in one location for more than four nights is prohibited except under permit.

(3) All camping supplies must be removed from camping sites.

(4) No organized group of ten or more individuals may camp at a single designated camp site at any time except under permit.

(5) Permanent structures must not be erected.

G. Horse riding.

174 FINAL REGULATIONS

- (1) Horse riding is allowed, except during any open hunting periods.
- (2) The riding of horses is allowed on roads open to motorized vehicular traffic, unless posted as closed to horseback riding.
- (3) Horse riding is allowed on firebreaks or trails if specifically posted as open to horseback riding.
- (4) The Department may restrict the number of horses and horse trailers and may require permits on specific areas. Restrictions shall be posted at the offices and/or entrances to Department lands or in published brochures.
- (5) The owner of any horse brought onto Department property is responsible for the payment of any expense for the removal of injured or dead horses.
- (6) Horses must be attended.
- (7) Only pelletized feed may be used, no hay.
- (8) Access to a Department property by horseback is limited to a designated public entrance. A public entrance is a day-use parking area. For ride-on users (without vehicles or trailers) only, entrance is allowed where a road open to motorized vehicular traffic or firebreak designated for horseback riding intersects a public or private road.
- (9) When not being ridden, horses must be led by halter or reins, confined in a trailer, or tied to a trailer tie or hitching rail. Horses may not be confined using portable corrals or electric fences.
- (10) Within a day-use parking area, horses must be kept at a flat walk.
- (11) The Department may require a person with an unruly horse, which is causing a disturbance or safety hazard, to remove the horse from Department property.

H. Operation of boats.

- (1) Boats may be used on Department land only on a watercourse or water body which has been designated by the Department for the use of boats. The Department may restrict the type, size, or number of boats and motors or the use of motors. Any restrictions shall be posted at the entrances to Department land. This restriction shall not apply to any State or federal navigable waterway.
- (2) Motorized boats may only be launched at launch sites designated by the Department.

I. Possession of pets or specialty animals.

- (1) Pets may enter Department land and accompany an individual on allowed activities if each pet is under the actual control of the owner or possessor.
- (2) Neither dangerous pets nor pets with a propensity toward aggressive behavior are allowed.
- (3) The requirements of this subsection do not apply to dogs while being used during and as a part of any of the following activities:
 - (a) Hunting when use of dogs is authorized by statute or regulation.
 - (b) The training of dogs to hunt is deemed hunting; training of dogs to hunt on lands and waters may be undertaken only during periods when hunting with dogs is authorized by statute or regulation.
 - (c) Authorized field trial events.
 - (d) Special events or activities as authorized by the Department.
- (4) Raptors are allowed on Department land in compliance with R.123-170.

J. Consumption of alcohol.

Alcoholic beverages may be consumed by a person of lawful age only at a designated campsite, designated facility, residence or other designated location.

K. Gathering, damaging, or destroying rocks, minerals, fossils, artifacts, geological formations or ecofacts.

- (1) The Department may authorize the collection of certain material upon issuance of a permit .

L. Gathering, damaging, or destroying plants, fallen vegetation, animals and fungi.

- (1) The Department may authorize the collection of certain material upon issuance of a permit.
- (2) Shed antlers at ground surface may be collected.

M. Use of fire, fireworks, or explosives.

- (1) Open fires may only be started at campsites designated by the Department. Gas grills, gas lanterns, and portable charcoal grills may be operated at designated campsites.
- (2) No fire may be left unattended. Prior to leaving the site, any fire must be completely extinguished, leaving neither flames nor embers.
- (3) No wood, except from dead and down trees or from supplies as may be furnished by the Department shall be used for fuel.

(4) On any land where camp fires are permitted, the Department may prohibit the use of fires for any purpose by posting a notice at entrances to individual parcels of land.

(5) No person may deposit lighted matches, cigars, cigarettes or other burning tobacco where they will cause fire.

N. Hours of Operation.

(1) The Department may restrict the hours of operation on any Department land by publication in Department brochures and pamphlets or by posting on site specific hours of operation.

(2) Heritage preserves are open for public use from one hour before sunrise to one hour after sunset. On any preserve that is designated as a wildlife management area, the hours of operation shall be the same as are authorized for hunting as stated in R.123-40.

O. Shooting onto or across WMA land closed to hunting.

(1) Shooting onto or across WMA land closed to hunting is allowed provided the shooter and the game being shot at are physically outside the boundary of the WMA. The airspace above the WMA is considered within the boundary of the WMA.

123-204. Additional Regulations Applicable to Specific Properties.

A. Aiken County Gopher Tortoise Heritage Preserve.

(1) Bicycles may be ridden on hiking trails. Bicyclists may ride in groups no larger than five (5).

B. Bay Point Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

C. Bear Branch Heritage Preserve.

Public visitation is by permit only. The preserve is closed to use except by permit.

D. Bear Island.

(1) Except when closed for scheduled hunts, the area is open from 1/2 hour before sunrise to 1/2 hour after sunset.

(2) The property is closed to all public access from November 1 through February 8, except for scheduled hunts.

(3) All terrain vehicles are prohibited.

(4) Camping is allowed only at designated sites and only during scheduled big game hunts.

(5) The area is closed to general public access during scheduled hunts.

(6) Fishing is allowed in designated areas from April 1 through September 30.

E. Bird-Key Stono Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

(3) March 15 through October 15 the area is closed to all access including the intertidal zone between low and high tide waterlines.

(4) October 16 through March 14 access is allowed only in the intertidal zone between low and high tide waterlines.

(5) No motorized vehicles, bicycles or horses.

F. Caper's Island Heritage Preserve.

(1) Overnight Camping on Capers Island is by permit only. Permit may be obtained from the DNR Charleston office. No more than 80 people will be allowed to camp per night. These 80 people may be divided into no more than 20 different groups.

(2) Permits will be issued on a first come first served basis.

(3) Campsites will be occupied on a first come first served basis.

(4) Permits are not required for day use.

(5) Persons without permits must be off the island by one hour after sunset.

(6) No trash is to be placed in any fire or buried.

(7) Department maintenance facilities on the island are not open to the public.

(8) No crab or fish pots or traps are allowed in impoundments.

176 FINAL REGULATIONS

(9) No motorized vehicles, nonmotorized vehicles, off road vehicles, or all-terrain vehicles are allowed on Capers Island.

(10) No fishing is allowed from the impoundment tide gate.

G. Crab Bank Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

(3) March 15 through October 15 the area is closed to all access including the intertidal zone between low and high tide waterlines.

(4) October 16 through March 14 access is allowed only in the intertidal zone between low and high tide waterlines.

(5) No motorized vehicles, bicycles or horses.

H. Daws Island Heritage Preserve.

Camping is allowed only by permit issued by the Department. Primitive camping only is allowed. Daws Island camping is limited to two groups of no more than eight people in each group.

I. Deveau Bank.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

(3) Closed all year above the high tide line (no seasonal closure) except in the recreation area.

(4) No motorized vehicles, bicycles or horses.

J. Donnelley WMA.

(1) Horseback riders must obtain a permit from the Donnelley WMA office prior to riding.

(2) All terrain vehicles are prohibited.

(3) Camping is prohibited.

K. Dungannon Plantation Heritage Preserve.

(1) No person may enter any area of the preserve designated as a nesting area for birds.

(2) Entrance to the preserve is through a designated parking area. Each person must sign in and out of the preserve at a designated entrance/exit.

L. Gopher Branch Heritage Preserve.

Public visitation is by permit only.

M. Great Pee Dee River Heritage Preserve.

(1) Primitive camping only is allowed. Camping may occur only along riverbanks and on sandbars, which may be approached only by backpacking or boat.

(2) Each person entering the preserve other than by boat must sign in and out at a designated entrance/exit.

N. Jim Timmerman Natural Resources Area at Jocassee Gorges.

This subsection shall apply to all Department owned land within the boundaries of the Jim Timmerman Natural Resources Area at Jocassee Gorges (hereinafter referred to as Jocassee Gorges).

(1) Camping.

(a) Backcountry camping by permit will be allowed at any time during the year that the main roads allowing access to the Jocassee Gorges are not opened in connection with big game hunting. Backcountry camping is allowed by permit only at any location within the Jocassee Gorges, except for any area closed for camping by the Department. Backcountry camping is defined as minimal impact camping. No fires are allowed and each permitted camper is responsible for camping in a manner that results in no trace of the camping activity being left after breaking camp. Backcountry campers must apply for camping permits over the Department internet site. No camping is permitted within twenty-five (25) feet of a stream, lake, or as posted by the Department.

(b) The Foothills Trail passes through portions of the Jocassee Gorges. Use of the Foothills Trail shall be limited to hiking and primitive camping. Camping is allowed at any point along the trail and within one hundred feet of either side of the trail. Camping along the Foothills Trail is restricted to hikers while engaged in backpacking.

(2) Operation of motorized, non-motorized vehicles, all terrain vehicles, and off road vehicles.

Motorized and non-motorized vehicle access to the Jocassee Gorges is limited. Highway 178 and Cleo Chapman Road (county road 143) are the only paved roads that access the property. Access by the general

public to the Jocassee Gorges by motorized vehicles will follow a seasonal schedule. Road opening and closing schedules written below are given as general information. The Department may open and close any road at any time and for such duration as deemed necessary by the Department to manage the property.

(a) The operation of a motorized vehicle behind any closed gate is prohibited.

(b) Roads open to year-round public access include a section of Horsepasture to Laurel Fork Gap (from Highway 178 only).

(c) All roads with Green gates are seasonally open. All roads with red gates are closed to vehicular traffic. This information will be posted at all major entrances.

(d) Motorized vehicles, all terrain vehicles, and off road vehicles may be operated only on open maintained roads and parking areas except as otherwise established by posted notice or as approved by the Department.

(e) Motorized vehicles, all terrain vehicles, and off road vehicles shall not exceed speed limits posted on Department signs. On any land where no speed limit signs are posted the speed limit shall be 15 miles per hour.

(f) Subject to the authority in subsection (d) above, the operation of all terrain vehicles is restricted as follows: Operation of all terrain vehicles is restricted to one hour before sunrise to one hour after sunset each day beginning on Monday and continuing through the following Friday. A person may use an all terrain vehicle while actually engaged in hunting at any time hunting is allowed; provided, however, the operation of an all terrain vehicle is restricted to one hour before sunrise to one hour after sunset with the exception of game retrieval, and an all terrain vehicle may be used only on open roads.

(g) All terrain vehicles having three (3) wheels and motorcycles constructed or intended primarily for off road use, such as dirt bikes and motocross bikes, are prohibited within the Jim Timmerman Natural Resources Area at all times.

(h) Bicycles may be ridden on any road or area that is not posted as closed to bicycles.

(3) The use of hang gliders, parachutes, or similar devices is not allowed and may be deemed abuse of Department land.

O. Joiner Bank Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

P. Little Pee Dee Heritage Preserve.

(1) Primitive camping only is allowed. Camping may occur only along riverbanks and on sandbars, which may be approached only by backpacking or boat.

Q. Nipper Creek Heritage Preserve.

Public visitation is by permit only. The preserve is closed to use except by permit.

R. North Santee Bar Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

S. St. Helena Sound Heritage Preserve (Ashe Island, Beet Island, Big Island, Warren Island, and South Williman).

Camping is restricted to primitive camping in designated areas only.

T. St. Helena Sound Heritage Preserve (Otter Island).

(1) No dogs are allowed.

(2) Primitive camping only is allowed by permit issued by the Department. Primitive camping is restricted to designated areas and will be allowed only between November 1 and April 30 .

U. Samworth WMA.

(1) Managed wetlands will be open for wildlife observation, bird watching, photography or nature study during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) from February 9 through October 31 each year. Between November 1 and February 8 these activities will be restricted to designated areas on Butler Creek and the Big Pee Dee River. All public use of this type will be by foot travel only after arriving by watercraft.

(2) The mainland nature trail will be open without day or time restriction to foot traffic only.

(3) All terrain vehicles, bicycles, and horses are prohibited.

178 FINAL REGULATIONS

(4) Temporary primitive camping will be available to organized groups by permit. No camping will be allowed that may conflict with organized hunts.

(5) Dirleton grounds are open to the public from 8:30 a.m. until 5:00 p.m., Monday through Friday.

V. Santee Coastal Reserve.

(1) The Santee Coastal Reserve is open during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) for limited public use year round except during annually scheduled hunts. Notice of the hunts will be issued annually.

(2) Managed wetlands will be open for wildlife observation, bird watching, photography, or nature study during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) from February 9 through October 31 each year except during special hunts and events regulated by the Department.

(3) The dikes around the waterfowl impoundments and the canoe trail will be closed, except by prior arrangement, during the period of November 1 through February 8 of the next year.

(4) Prior arrangements must be made with the Reserve manager to use observation blinds for waterfowl.

(5) The upland nature trail will be available during open periods stated above.

(6) The hiking/biking trail will also be available during open periods, however, it will be closed between the dates of November 1 and February 8.

(7) The beaches on Cedar and Murphy Islands will be open year round, seven days a week.

(8) Bicycles may be ridden on nature trails.

(9) Fishing is permitted from the Santee River dock and the Hog Pen impoundment except during scheduled hunts. Fishing will be allowed during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset). Fishing is permitted on Murphy and Cedar Island beaches at any time on a year round basis.

(10) A permit is required for all camping. Primitive camping is available on Cedar and Murphy Islands beaches year round which requires no prior arrangement. All arrangements for camping should be made with the supervisor of the Santee Coastal Reserve.

W. Santee-Delta WMA.

(1) Managed wetlands will be open for wildlife observation, bird watching, photography or nature study during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) from February 9 through October 31 each year except during special hunts and events regulated by the Department. Area closed to all public access from November 1 through February 8 except for special hunts and events regulated by the Department. All public use of this type will be by foot travel only.

(2) All terrain vehicles, bicycles, and horses are prohibited.

(3) Camping is prohibited.

X. Shealy's Pond Heritage Preserve.

Gasoline powered motors on boats are prohibited.

Y. Tillman Sand Ridge Heritage Preserve.

(1) Camping is allowed in designated campsites during designated hunts only.

Z. Tom Yawkey Wildlife Center.

The center is a wildlife sanctuary.

(1) The public may visit the Yawkey Center on a limited basis. Visitation is by pre-scheduled field trip only. Individual trips cannot be scheduled. Group field trip may be arranged by contacting the manager for the center. The public is advised that scheduling of field trips is entirely at the discretion of the manager in order to accommodate the basic responsibilities of the sanctuary.

(2) Camping is allowed only by permit issued by mail no less than two weeks in advance by the Department. Camping is allowed only on the beaches along the ocean front, which are accessible by boat only, between September 16 and May 14. Primitive camping only is allowed for a period of no more than four consecutive nights per individual permittee.

AA. Victoria Bluff heritage Preserve.

(1) Camping is allowed only during Department designated archery hunts. Gas lanterns and gas grills only may be used by campers.

(2) No campfires or any other use of fire shall be allowed.

BB. Waccamaw River Heritage Preserve.

Primitive camping only is allowed. Camping is allowed only along riverbanks and on sandbars; campers may approach only by backpacking or boat.

CC. Watson Cooper Heritage Preserve.

Camping is restricted to primitive camping. No live plants may be cut or cleared to improve or expand a campsite. No campsites or campfires within 25 feet of a stream or creek.

DD. Webb WMA.

(1) Webb WMA is closed to the general public from one hour after official sunset to one hour before official sunrise.

(2) Overnight visitors to the Webb Center are not restricted in hours of access.

(3) No camping without a permit except for deer, turkey, and hog hunters on nights before a designated hunt.

(4) Bicycles may be ridden on any area that is not marked or posted as restricted to bicycles. No bicycle may be operated in any manner or place that will damage or degrade any feature or habitat. During scheduled big game hunts, bicycles and all terrain vehicles are prohibited except as used by legal hunters and anglers.

EE. Laurel Fork Heritage Preserve.

(1) All terrain vehicles may be ridden on the portions of Cane Break and Horsepasture roads on the Preserve subject to the same rules as the Jim Timmerman Natural Resources Area at Jocassee Gorges.

FF. Botany Bay Plantation WMA.

(1) No camping is allowed.

(2) All terrain vehicles are prohibited except those permitted by the Department for special management activities.

(3) The Fig Island shell rings are closed to all public access except organized scientific, management or educational activities permitted by the the Department.

(4) Access to the beach is by foot, bicycle or boat; no horses allowed on the beach. No dogs allowed on the beach. No collection, removal or possession of shells, fossils, driftwood or cultural artifacts is permitted.

(5) Sea Cloud Landing on Ocella Creek and all other designated access points are restricted to non-trailer watercraft.

(6) All hunters, fishermen and visitors must obtain and complete a day use pass upon entering the area and follow instructions on the pass.

(7) Botany Bay Plantation WMA is closed to public access 1/2 hour after sunset until 1/2 hour before sunrise except for special events regulated by the Department.

(8) No person may gather, collect, deface, remove, damage, disturb, destroy, or otherwise injure in any manner whatsoever the plants, animals (except lawful hunting), fungi, rocks, minerals, fossils, artifacts, or ecofacts including but not limited to any tree, flower, shrub, fern, moss, charcoal, plant remains, or animal remains. The Department may authorize the collection of certain material upon issuance of a permit as provided in 123-206.

(9) Shorebased fishing, shrimping, and crabbing, is allowed only on the front beach and in designated areas only.

(10) The Department reserves the right to close specific areas as needed for management purposes.

(11) Alcoholic beverages are prohibited on the area.

GG. McBee WMA.

(1) All terrain vehicles are prohibited.

HH. Cambells Crossroads and Angelus Tract.

(1) All terrain vehicles are prohibited.

II. Pee Dee Station WMA.

(1) All terrain vehicles are prohibited.

123-205. Special Events, Permit Requirements and Procedures, and Exceptions.

A. A special event permit is required for all events occurring on Department land if one of the following conditions exists:

(1) the exclusive use of a facility or a specified land or water area is required;

(2) an organized or advertised competition will be conducted;

(3) sound will be amplified which may disrupt area users; or

(4) temporary structures, other than blinds or common camping equipment, will be erected.

180 FINAL REGULATIONS

B. Permits may not be issued for events that are commercial in nature, where entrance or similar fees are charged, or where vendors are present for the purpose of selling any items.

C. An event sponsored in part or in total by the Department shall not require a special event permit.

D. Permit procedures:

(1) Each application for a special event permit must be submitted to the Department not less than 30 weekdays before the event is to be held;

(2) Performance deposit may be required as a condition of special event permit issuance;

(3) The deposit will be returned by the Department, provided the special event permittee has performed all permit conditions;

(4) The permittee is responsible for cleaning and safekeeping the land during and following any event, and the permittee is responsible for any damage and for clean-up costs incurred by the Department in connection with the event;

(5) Permit holders may tag or mark wildlife only as allowed under permit conditions.

E. The Department may refuse to issue a special event permit if the proposed event would:

(1) not be compatible with intended uses of the area;

(2) result in misuse or damage to facilities, structures or the natural environment; or

(3) pose a threat to public health, safety or welfare.

F. In addition to other penalties prescribed by law, failure to comply with all rules and regulations and permit conditions is grounds for revocation of a special event permit or refusal to issue a special event permit.

123-206. Permits to Collect Plants, Animals, or Minerals or to Undertake Archeological Activities.

A. The Department may issue permits to collect plants, animals, or minerals or to undertake research, survey, or archeological activities on Department land. Permits may be issued only for activities relating to educational or scientific purposes. Permits may be issued subject to the following conditions:

(1) Each application for a permit must be submitted to the Department not less than 30 weekdays before the proposed activity is to commence;

(2) A performance deposit may be required as a condition of permit issuance;

(3) The deposit will be returned by the Department, provided the permittee has performed all permit conditions;

(4) The permittee is responsible for cleaning and safekeeping the land during and following the activity, and the permittee will be responsible for any damage and for clean-up costs incurred by the Department in connection with the activity;

(5) Permit holders may tag or mark wildlife only as allowed under permit conditions.

B. The Department may refuse to issue a permit if the activity would:

(1) not be compatible with intended uses of the area;

(2) result in misuse or damage to facilities, structures or the natural environment; or

(3) pose a threat to public health, safety or welfare.

123-207. Exception for Non-Public Use Properties.

This regulation shall not be applicable to Department owned land used for such purposes as fish hatcheries, maintenance facilities, storage facilities, offices, residences, or similar facilities which are not open generally for public use or recreational purposes.

123-208. Law Enforcement, Fire Fighting, and Emergency Activities.

This regulation shall not be construed or applied to prevent any authorized law enforcement, fire fighting, emergency, or rescue personnel from carrying out their official responsibilities.

Fiscal Impact Statement:

This amendment of Regulations 123-200 through 123-210 will not reduce the public use of DNR properties or result in changes in the generation of State revenue.

Statement of Rationale:

Rationale for the formulation of these regulations is based on over 60 years of experience by SCDNR in establishing public use areas. New areas are evaluated on location, size, current wildlife presence, access and recreation use potential. Contractual agreements with the landowners provide guidelines for the use and management of the property. Wildlife Management Area agreements are on file with the Wildlife Section of the Department of Natural Resources, Room 267, Dennis Building, 1000 Assembly Street, Columbia.