

## **SOUTH CAROLINA STATE REGISTER DISCLAIMER**

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# SOUTH CAROLINA STATE REGISTER

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

# ***SOUTH CAROLINA STATE REGISTER***

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

## **STYLE AND FORMAT**

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

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

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

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

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

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

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

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

## **2024 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	1/12	2/9	3/8	4/12	5/10	6/14	7/12	8/9	9/13	10/11	11/8	12/13
Publishing Date	1/26	2/23	3/22	4/26	5/24	6/28	7/26	8/23	9/27	10/25	11/22	12/27

## 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.

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

DOC. No.	RAT. No.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY	HOUSE COMMITTEE	SENATE COMMITTEE
5145	SR48-2	Child Support Guidelines		01/13/2024	Dept of Social Services	Regs and Admin Procedures	Judiciary
5175	SR48-4	Plant Pests		03/11/2024	Clemson University	Regs and Admin Procedures	Ag and Nat Resources
5136	SR48-4	Certification of Need for Health Facilities and Services		04/04/2024	Dept of Health and Envir Control	Regs and Admin Procedures	Medical Affairs
5111	SR48-5	Campaign Practices and Reports		05/08/2024	State Ethics Commission	Regs and Admin Procedures	Judiciary
5112	SR48-5	Contested Case Procedure		05/08/2024	State Ethics Commission	Regs and Admin Procedures	Judiciary
5113	SR48-5	General		05/08/2024	State Ethics Commission	Regs and Admin Procedures	Judiciary
5115	SR48-5	Statement of Economic Interests and Contract Disclosure Forms		05/08/2024	State Ethics Commission	Regs and Admin Procedures	Judiciary
5114	SR48-5	Lobbyists, Lobbyist's Principals and Rating Entities		05/08/2024	State Ethics Commission	Regs and Admin Procedures	Judiciary
5180	SR48-5	Definitions		05/08/2024	Dept of Disabilities and Special Needs	Regs and Admin Procedures	Medical Affairs
5182	SR48-5	Unclassified Facilities and Programs		05/08/2024	Dept of Disabilities and Special Needs	Regs and Admin Procedures	Medical Affairs
5179	SR48-5	License Requirement for Facilities and Programs		05/08/2024	Dept of Disabilities and Special Needs	Regs and Admin Procedures	Medical Affairs
5181	SR48-5	Day Programs for Persons with Intellectual Disability		05/08/2024	Dept of Disabilities and Special Needs	Regs and Admin Procedures	Medical Affairs
5183	SR48-5	Article 5, Sewerage Utilities		05/08/2024	Public Service Commission	Regs and Admin Procedures	Judiciary
5177	SR48-5	Article 3, Electric Systems		05/08/2024	Public Service Commission	Regs and Admin Procedures	Judiciary
5168	SR48-5	Article 8, Practice and Procedure		05/08/2024	Public Service Commission	Regs and Admin Procedures	Judiciary
5176	SR48-5	Displaying the Flag		05/08/2024	State Board of Education	Regs and Admin Procedures	Education
5184	SR48-5	Article 7, Water Utilities		05/08/2024	Public Service Commission	Regs and Admin Procedures	Judiciary
5222	SR48-5	Criteria for Entry into Programs of Special Education for Students with Disabilities		05/08/2024	State Board of Education	Regs and Admin Procedures	Education
5223	SR48-5	Operation of Public Student Transportation Services		05/08/2024	State Board of Education	Regs and Admin Procedures	Education
5178	SR48-5	Article 4, Gas Systems		05/08/2024	Public Service Commission	Regs and Admin Procedures	Judiciary
5228	SR48-5	Self-Insurers		05/08/2024	Dept of Motor Vehicles	Regs and Admin Procedures	Transportation
5226	SR48-5	Transportation of Radioactive Waste Into or Within South Carolina		05/08/2024	Dept of Health and Envir Control	Regs and Admin Procedures	Labor, Commerce and Industry
5210	SR48-5	Borrower's Preference Re Attorney and Insurance		05/08/2024	State Board of Financial Institutions	Regs and Admin Procedures	Banking and Insurance
5215	SR48-5	Home Improvement Loans, Savings and Loan		05/08/2024	State Board of Financial Institutions	Regs and Admin Procedures	Banking and Insurance
5216	SR48-5	Insurance and Fidelity Bond Protection		05/08/2024	State Board of Financial Institutions	Regs and Admin Procedures	Banking and Insurance
5217	SR48-5	Investment of Surpluses		05/08/2024	State Board of Financial Institutions	Regs and Admin Procedures	Banking and Insurance
5219	SR48-5	Limitations and Restrictions on Loans, Savings and Loan		05/08/2024	State Board of Financial Institutions	Regs and Admin Procedures	Banking and Insurance
5207	SR48-5	Mobile Home Loans, Savings and Loan		05/08/2024	State Board of Financial Institutions	Regs and Admin Procedures	Banking and Insurance
5208	SR48-5	Notice of Intention to Withdraw Shares		05/08/2024	State Board of Financial Institutions	Regs and Admin Procedures	Banking and Insurance
5209	SR48-5	Participation in RFC Loans		05/08/2024	State Board of Financial Institutions	Regs and Admin Procedures	Banking and Insurance
5213	SR48-5	Servicemen's Readjustment Act		05/08/2024	State Board of Financial Institutions	Regs and Admin Procedures	Banking and Insurance
5250	SR48-5	Rules and Regulations Governing the Issuance of Deer Depredation Permits		05/08/2024	Dept of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5251	SR48-5	Wildlife Management Area Regulations		05/08/2024	Dept of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5229	SR48-5	Family Day Care Homes		05/08/2024	Dept of Social Services	Regs and Admin Procedures	Family and Veterans' Services
5231	SR48-5	Residential Group Care Facilities for Children		05/08/2024	Dept of Social Services	Regs and Admin Procedures	Family and Veterans' Services
5240	SR48-5	Pharmacy Benefits Managers		05/08/2024	Dept of Insurance	Regs and Admin Procedures	Banking and Insurance
5258	SR48-5	Recordkeeping		05/08/2024	LLR-OSHA	Regs and Admin Procedures	Labor, Commerce and Industry
5236	SR48-5	Compensation for the Occupational Health and Safety Review Board		05/08/2024	LLR-OSHA	Regs and Admin Procedures	Labor, Commerce and Industry
5247	SR48-5	Board of Podiatry Examiners		05/08/2024	LLR-Board of Podiatry Examiners	Regs and Admin Procedures	Medical Affairs
5256	SR48-5	State Board of Examiners in Psychology		05/08/2024	LLR-State Board of Ex. in Psychology	Regs and Admin Procedures	Medical Affairs

## 2 REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

5238	SR48-5	Real Estate Commission (Residential Property Condition Disclosure Statement Form)	05/08/2024	LLR–Real Estate Commission	Regs and Admin Procedures	Labor, Commerce and Industry
5243	SR48-5	Fee Schedule for the Building Codes Council	05/08/2024	LLR	Regs and Admin Procedures	Labor, Commerce and Industry
5237	SR48-5	Board of Examiners in Speech/Language Pathology and Audiology	05/08/2024	LLR–Ex. in Speech/Language Path & Aud	Regs and Admin Procedures	Medical Affairs
5233	SR48-5	Fee Schedule for the Board of Medical Examiners	05/08/2024	LLR	Regs and Admin Procedures	Medical Affairs
5254	SR48-5	South Carolina Board of Chiropractic Examiners	05/08/2024	LLR–SC Board of Chiropractic Examiners	Regs and Admin Procedures	Medical Affairs
5244	SR48-5	State Licensing Board for Contractors	05/08/2024	LLR–State Licensing Board for Contractors	Regs and Admin Procedures	Labor, Commerce and Industry
5246	SR48-5	Professional Land Surveyor Licensure Requirements	05/08/2024	LLR–SC State Board of Registration for Prof Engineers and Land Surveyors	Regs and Admin Procedures	Labor, Commerce and Industry
5245	SR48-5	Environmental Certification Board	05/08/2024	LLR–SC Environmental Certification Board	Regs and Admin Procedures	Labor, Commerce and Industry
5187	SR48-5	Quorum	05/08/2024	LLR–State Board of Reg for Foresters	Regs and Admin Procedures	Fish, Game and Forestry
5234	SR48-5	Athletic Trainers	05/08/2024	LLR–State Board of Medical Examiners	Regs and Admin Procedures	Medical Affairs
5241	SR48-5	Pharmacy Services Administrative Organizations	05/08/2024	Dept of Insurance	Regs and Admin Procedures	Banking and Insurance
5259	SR48-5	Turkey Hunting Rules and Seasons	05/08/2024	Dept of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5260	SR48-5	Individual Antlerless Deer Tags, Antlerless Deer Limits for Private Lands in Game Zones 1-4, and Youth Deer Hunting Day	05/08/2024	Dept of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5232	SR48-5	Wilderness Therapeutic Camps for Children	05/08/2024	Dept of Social Services	Regs and Admin Procedures	Family and Veterans' Services
5257	SR48-5	State Board of Pharmacy	05/08/2024	LLR–State Board of Pharmacy	Regs and Admin Procedures	Medical Affairs
5252	SR48-5	State Board of Social Work Examiners	05/08/2024	LLR–State Board of Social Work Exam.	Regs and Admin Procedures	Family and Veterans' Services
5253	SR48-5	Real Estate Commission	05/08/2024	LLR–Real Estate Commission	Regs and Admin Procedures	Labor, Commerce and Industry
5190	SR48-5	Parking Regulations	05/08/2024	Dept of Mental Health	Regs and Admin Procedures	Medical Affairs
5235	SR48-5	Board of Physical Therapy Examiners	05/08/2024	LLR–Board of Physical Therapy Examiners	Regs and Admin Procedures	Medical Affairs
5248	SR48-5	Building Codes Council	05/08/2024	LLR–Building Codes Council	Regs and Admin Procedures	Labor, Commerce and Industry
5221	SR48-5	Billing Accounts	05/08/2024	Dept of Motor Vehicles	Regs and Admin Procedures	Transportation
5200	SR48-5	Statement of Policy; Applying for a Permit; General Guidelines for All Critical Areas; and Specific Project Standards for Beaches and the Beach/Dune System	05/08/2024	Dept of Health and Envir Control	Regs and Admin Procedures	Ag and Nat Resources
5191	SR48-5	Solid Waste Management Regulation (Solar Projects)	05/08/2024	Dept of Health and Envir Control	Regs and Admin Procedures	Medical Affairs
5249	SR48-5	Additional Regulations Applicable to Specific Properties	05/08/2024	Dept of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5263		Pesticide	05/17/2024*	Clemson University	Regs and Admin Procedures	Ag and Nat Resources
5266		Payment of Compensation	05/31/2024*	SC Workers' Compensation Commission	Regs and Admin Procedures	Judiciary
5269		School and Classroom Library Materials	06/25/2024*	State Board of Education	Regs and Admin Procedures	Education
5264		Standards for Licensing Ambulatory Surgical Facilities	07/12/2024*	Dept of Health and Envir Control	Regs and Admin Procedures	Medical Affairs
5265		Minimum Standards for Licensing Hospitals and Institutional Infirmaries	07/12/2024*	Dept of Health and Envir Control	Regs and Admin Procedures	Medical Affairs
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5192		R.45-1, Definitions	Tolled	State Election Commission	Regs and Admin Procedures	Judiciary
5193		R.45-2, Instructions and Certification of Managers and Clerks in the Use of Vote Recorders	Tolled	State Election Commission	Regs and Admin Procedures	Judiciary
5194		R.45-3, Tabulating Center Personnel	Tolled	State Election Commission	Regs and Admin Procedures	Judiciary
5195		R.45-4, Certification of Program Instructions	Tolled	State Election Commission	Regs and Admin Procedures	Judiciary
5196		R.45-5, Ballot Envelopes and Fold Over Ballot Cards	Tolled	State Election Commission	Regs and Admin Procedures	Judiciary
5197		R.45-6, Defective Ballot Cards	Tolled	State Election Commission	Regs and Admin Procedures	Judiciary
5198		R.45-7, Ballot Cards, Sealed After Tabulation	Tolled	State Election Commission	Regs and Admin Procedures	Judiciary
5199		R.45-9, Write-in-Ballots, Sealed After Tabulation	Tolled	State Election Commission	Regs and Admin Procedures	Judiciary
5201		Emergency Election Procedures	Tolled	State Election Commission	Regs and Admin Procedures	Judiciary
5202		Poll Worker Training; Candidate Withdrawals	Tolled	State Election Commission	Regs and Admin Procedures	Judiciary
5203		Procedures for Electronic Petitions	Tolled	State Election Commission	Regs and Admin Procedures	Judiciary
5204		R.45-10, Retention and Disposition of Certain Voting Records	Tolled	State Election Commission	Regs and Admin Procedures	Judiciary

**REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 3**

5205	Reports to State Election Commission by County Boards of Voter Registrations and Elections	Tolled	State Election Commission	Regs and Admin Procedures	Judiciary
5225	Retention and Storage of Election Records and Election Equipment	Tolled	State Election Commission	Regs and Admin Procedures	Judiciary
<b>Permanently Withdrawn</b>					
5255	Office of Elevators and Amusement Rides		LLR–Off of Elev and Amusement Rides	Regs and Admin Procedures	Labor, Commerce and Industry
5227	License Plates		Dept of Motor Vehicles	Regs and Admin Procedures	Transportation
5224	R.45-8, Defective and Duplicate Ballot Cards, Sealed After Tabulation		State Election Commission	Regs and Admin Procedures	Judiciary

\*Revised 120 Day Review Expiration Date for Automatic Approval

## 4 NOTICES

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### NOTICE OF GENERAL PUBLIC INTEREST

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication on **May 24, 2024**, 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 Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201, at (803) 545-4200, or by email at [coninfo@dhec.sc.gov](mailto:coninfo@dhec.sc.gov).

##### Affecting Beaufort County

##### **Encompass Health Rehabilitation Hospital of Bluffton, LLC d/b/a Encompass Health Rehabilitation Hospital of Bluffton**

Construction for the addition of 12 rehabilitation beds for a total of 50 rehabilitation beds and the addition of 8,250 sf at a total project cost of \$11,300,000.00.

##### Affecting Charleston County

##### **Encompass Health Rehabilitation Hospital of Charleston, LLC d/b/a MUSC Health Medical University of South Carolina Rehabilitation Hospital an affiliate of Encompass Health**

Construction for the addition of 20 rehabilitation beds for a total of 69 rehabilitation beds and the addition of 21,950 sf at a total project of \$26,900,000.00.

##### Affecting Greenville County

##### **Encompass Health Rehabilitation Hospital of Greenville, LLC d/b/a Encompass Health Rehabilitation Hospital of Greenville**

Construction for the addition of 40 rehabilitation beds for a total of 80 rehabilitation beds and the addition of 25,605 sf at a total project cost of \$33,500,000.00.

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made no earlier than 30 days, but no later than 90 days, from **May 24, 2024**. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 120 days from the above date. For further information call (803) 545-4200 or email [coninfo@dhec.sc.gov](mailto:coninfo@dhec.sc.gov).

##### Affecting Charleston County

##### **Trident Medical Center, LLC d/b/a Trident Medical Center**

Addition of 1 rehabilitation bed for a total of 24 rehabilitation beds at a total project cost of \$47,418.00.

##### Affecting Greenville County

##### **Coram Alternate Site Services, Inc.**

Establishment of a Specialty Home Health Agency to provide home infusion services in Greenville County at a total project cost of \$1,000.00.

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

## NOTICE OF GENERAL PUBLIC INTEREST

The Office of the Attorney General has notified the South Carolina Department of Health and Environmental Control of legal proceedings involving a determination of real property interest in tidelands. Pursuant to S.C. Code Ann. § 48-39-220 (Supp. 2006), the Department is providing notice to the public of the following legal action(s):

Lowcountry Open Land Trust, Inc. and Bryan Dairy, Inc.

v.

State of South Carolina and Edward L. Myrick

Case No.: 2013-CP-10-07049

Charleston County

The Complaint was filed on or about December 3, 2013. The Answer of the State of South Carolina was filed on February 14, 2014. A Stipulation of Dismissal was filed on August 25, 2014.

East Cherry Grove Realty Co., LLC

v.

State of South Carolina and South Carolina Department of Health and Environmental Control

Case No.: 2014-CP-26-01412

Horry County

The Complaint was filed on or about March 7, 2014. The Answer of the State of South Carolina was filed on July 8, 2015. A Final Order was filed July 8, 2015.

Town of Hilton Head Island

v.

Segars & Associates, Inc., Tad Segars, individually, and the State of South Carolina

Case No.: 2007-CP-07-01037

Beaufort County

The Complaint was filed on or about April 20, 2007. An Amended Complaint was filed on May 28, 2009. The State's Answer was filed on July 30, 2009. An Order of Dismissal was filed on August 18, 2014.

Edisto Georgia, LLC

v.

State of South Carolina

Case No. 2015-CP-10-6790, 2015-CP-10-6791 and 2015-CP-10-6792 (consolidated)

Charleston County

As to 2015-CP-10-6790: the Complaint was filed on December 17, 2015. The State's Answer was filed on April 7, 2016.

As to 2015-CP-10-6791: the Complaint was filed on December 17, 2015. The State's Answer was filed on April 11, 2016.

As to 2015-CP-10-6792: the Complaint was filed on December 17, 2015. The State's Answer was filed on April 7, 2016.

The (final) Amended Master's Order for all 3 (consolidated) cases was filed on December 28, 2018.

Evan Jones, Leslie Jones and Justin Jones

v.

Nancy H. Reese, Leonard R. Jackson and J. Doe, adults, and M. Roe, Infants, insane persons, incompetents, being fictitious names designating a class of persons, known or unknown, and all other persons unknown, claiming any right, title, estate, interest in or lien upon the real property described in the complaint, adverse to plaintiffs' ownership

## 6 NOTICES

or any cloud on plaintiffs' title

The Complaint was filed on or about July 29, 2005. The State of South Carolina filed an Answer to that suit on or about March 31, 2010. An Order Confirming Title in Plaintiffs, Evan Jones, Leslie Jones and Justin Jones was filed on April 1, 2016.

Case No.: 2011-CP-10-0657

Charleston County

H. Marshall Hoyler

v.

State of South Carolina, Merry Land Properties, LLC, Sherbert Living Trust, Supan Living Trust, Elizabeth R. Levin, Edward McCray Wise Revoc. Living Trust, Carol Ann DeVries Wise Revoc. Living Trust, Amelie Cromer, Philip Cromer, Robert Chiavello, Tocharoon Living Trust, Helen M. Olesak, Lesley Anne Glick a/k/a Lesley Ann Glick, Shirley G. Lackey, Patricia Banfield, Bertrand Cooper, Jr., NHP SH South Carolina 1, LLC n/k/a CCP Bayview 7176 LLC, Oyster Cove Homeowners Assn., Shirley Ann Moyer, Barry D. Malphrus, Garry D. Malphrus, Donnie Malphrus, Rita Brown, Houston Family Partnership, Joan Taylor Trustee, Michael Bull, Nancy Bull, Marny H. VonHarten, Dianne M. Donaldson, Brian R. Evans, Stephen Durbin, Valerie Durbin, Phillip Marti, Jane Marti, Michael Woodsworth, Georgiana M. Cooke, Daniel B. Walsh, Janet E. Walsh

Case No.: 2007-CP-07-3212

Beaufort County

An Order Denying Title to Marshlands was filed on May 27, 2016.

East Cherry Grove Realty Co., LLC

v.

Sadie K. Gore and J. Curtiss Gore; Robert D. Buddin, Jr.; Gene H. Maye and Helen H. Maye; Richard E. Griffin; David B. Gardner, Trustee, Tempe B. Gardner; William C. Turner, Jr., and Sara W. Turner; Harrelson Beach House, LLC; Billy Ray Corns and Lillie Mae Corns; John B. Boyd Sr. and Lorraine H. Boyd; James Hubert Meares, Jr.; Judity W. McLendon, Trustee of the Judity W. McLendon Revocable Trust; Steve McLendon, Trustee of the Steven McLendon Revocable Trust and Judity W. McLendon Trustee of the Judith W. McClendon Revocable Trust; Matthew Rothbeind and Barbara Rothbeind; David R. Garner and Frances W. Garner; William B. Lawson; Carol W. Covington Ross; Margaret G. Davis and Angela M. Smith; Carlee Cummings and Pandora L. Cummings; Clyde C. Kiser; Doris H. Poston and Aubrey M. Poston, Jr.; Gary C. Kimbrell and Ila P. Kimbrell; Barry G. Brooks and Dawn Nalley Brooks; Alan J. Donaldson and Martha J. Donaldson; Ellen F. Howell; Dominic N. Morlando and Laura A. Morlando; Taylor G. Woodruff and Dena M. Woodruff; Terry Blackmon and Cynthia Driggers Blackmon and the State of South Carolina

Case No.: 2016-CP-26-05392

Horry County

A complaint was filed on August 15, 2016. The State's Answer was filed September 27, 2018. A Consent Order (ending action) was filed September 27, 2018.

Coffin Point Plantation Property Owners Association, Inc.

v.

The State of South Carolina, Estate of Charles H. Lyman, The St. Helena Company, its successors or assigns, The Estate of J.D. Cameron a/k/a J. Donald Cameron, the Estate of J.E. McTeer, and all other persons known or unknown having any interest, title, estate or interest in or lien upon the real property described in the complaint herein through the above defendants or any other source being designated collectively as John Doe and Mary Roe including all persons who may be deceased, minors, persons in the armed

forces of the United States, insane or incompetent persons, and all other persons under any other disability who might have or claim to have any right, title, or interest in or lien upon the real property described in the complaint

Case No.: 2018-CP-07-02109

Beaufort County

A Complaint was filed on October 25, 2018. The State's Answer was filed on August 14, 2019. The case is currently pending before the South Carolina Court of Appeals.

Series K of Santa Rosita Group, LLC

v.

The State of South Carolina

Case No.: 2019-CP-10-01184

Charleston County

A Summons and Complaint was filed on October 16, 2019. The State's Answer was filed on May 10, 2019. The (final) Order Amending Final Order of Judgment was filed on October 25, 2019.

Harbor Island Owners' Association

v.

The State of South Carolina, Barbara and Patrick Shurtleff, Sandra and Billy Lynn, Tracey E. Cooperman, John W. Daniel, Judy M. and John E. Price, Sr., and Luther T. Anderson

Case No.: 2018-CP-07-02331

Beaufort County

A Summons and Complaint was filed on November 29, 2018. An Order Dismissing the State from this case was filed on April 19, 2019.

City of Folly Beach, Coastal Conservation League, Save Folly Beach, Inc., John Collins, Matt Napier, Paula Stubblefield, Troy Bode, and Carol Kruer

v.

State of South Carolina, Amy Connelly, Jeffrey H. Morris, Michael Vandaele, Stephen Rawe, Juan Enterprises, LLC, Juanita A. Wright, Debbie's Folly, LLC, and Vernon Staubes

Case No.: 2019-CP-10-00717

Charleston County

A Summons and Complaint was filed on February 12, 2019. The State's Answer was filed on May 6, 2019.

Marvin Brown, Anthony Brown, Tosha Suggs, as sole living heir of Mary Suggs, Prince Brown, Lucille Davis, Alexander Brown, Sr., Jannie Brown, Robert Brown, Jr., by Marvin Brown, Anthony Brown, Mary Suggs (Deceased) by Tosha Suggs, his sole living heirs

v.

Heirs of Prince Brown, Heirs of Alice Brown, William Brown, Mary Suggs, Lucille Davis, Alexander Brown, Sr., Jannie Brown, Harry Powell, Hortense Moody, Janeen Lawyer, Tamaya Powell Nicole Vaughan (a/ki/a Nicole Moody White), KJA Properties, LLC, a Mississippi limited liability company, Alexander Brown, Jr., Dawn S. Burke, Gerald G. Burke, The State of South Carolina, and all other persons unknown having or claiming to have any right, title, estate or interest in or lien upon the real property described in the Complaint, class being designated herein as John Doe and Richard Roe, including all minors, persons in the armed forces, insane persons and all other persons under any disability who may have or claim to have any right, title, estate or interest in or lien upon the real property described in the Complaint

Case No.: 2019-CP-07-02327

Beaufort County



## 8 NOTICES

A Summons and Complaint was filed on October 18, 2019. The State's Answer was filed on November 18, 2019. A Judgment Quieting Title to Land was filed on May 13, 2020.

The Belle W. Baruch Foundation

v.  
The State of South Carolina  
Case No.: 2019-CP-22-01116  
Georgetown County  
A Summons and Complaint was filed on November 14, 2019. The State's Answer was filed on January 24, 2020.

Pamela E. Lofton Blyth and William F. Lofton, Jr.

v.  
Long Point Farms, LLC and The State of South Carolina  
Case No.: 2020-CP-10-01641  
Charleston County  
A Summons and Complaint was filed on March 27, 2020. The State's Answer was filed on May 18, 2020.

Point Farm Investors, LLC and American Mitigation Company, LLC

v.  
The State of South Carolina  
Case No.: 2020-CP-10-01841  
Charleston County  
A Summons and Complaint was filed on April 15, 2020. The State's Answer was filed on June 16, 2020. The (final) Order was filed on February 12, 2021.

Commissioners of Public Works of the Town of Mount Pleasant, d/b/a Mount Pleasant Waterworks and Sewer Commission

v.  
The State of South Carolina  
2021-CP-10-01385  
Charleston County  
A Summons and Complaint was filed on September 22, 2021. The State's Answer was filed on April 23, 2021. A Final Order and Judgment was filed on September 22, 2021.

Lowcountry Land Trust, Inc., f/k/a Lowcountry Open Land Trust, Inc.

v.  
The State of South Carolina  
2021-CP-10-03588  
Charleston County  
A Summons and Complaint was filed on August 4, 2021. The State's Answer was filed on September 28, 2021. A Stipulation of Dismissal was filed on November 22, 2021.

Piney Islands Plantation, LLC

v.  
The State of South Carolina  
2022-CP-07-00836  
Beaufort County  
A Summons and Complaint was filed on May 16, 2022. The State's Answer was filed on June 15, 2022.

Gehlken Family Trust

v.  
The State of South Carolina

2022-C-10-03272

Charleston County

A Summons and Complaint was filed on July 20, 2022. The State's Answer was filed on September 19, 2022. An Amended Final Order of Judgment was filed on March 21, 2024.

Kenneth L. Gervais

v.

The State of South Carolina

2022-CP-10-03271

Charleston County

A Summons and Complaint was filed on July 20, 2022. The State's Answer was filed on August 19, 2022. A Final Order of Judgment was filed on March 30, 2024.

## 10 DRAFTING NOTICES

### SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY CHAPTER 37

Statutory Authority: 1976 Code Sections 23-23-10 et seq.

#### Notice of Drafting:

The South Carolina Criminal Justice Academy proposes to amend the regulation that addresses requests for contested case hearings, R.37-101. Interested persons may submit comments to Imani Byas or Rebecca Williams, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, S.C. 29210. To be considered, comments must be received no later than 5:00pm May 31, 2024, the close of the drafting period.

#### Synopsis:

S.C. Code Section 23-23-80 authorized the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code Section 23-23-10 et seq. The proposed regulation changes will allow agencies to request contested case hearings.

Legislative review of this proposal will be required.

### SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY CHAPTER 37

Statutory Authority: 1976 Code Sections 23-23-10, et seq.

#### Notice of Drafting:

The South Carolina Criminal Justice Academy proposes to amend the regulation that addresses the investigation of events requiring withdrawal of certification, R.37-024. Interested persons may submit comments to Imani Byas or Rebecca Williams, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, S.C. 29210. To be considered, comments must be received no later than 5:00 p.m. May 31, 2024, the close of the drafting period.

#### Synopsis:

S.C. Code Section 23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code Sections 23-23-10, et seq. The proposed regulation will define misconduct for the denial of certification of law enforcement officers.

Legislative review of this proposal will be required.

### SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY CHAPTER 37

Statutory Authority: 1976 Code Sections 23-23-10, et seq.

#### Notice of Drafting:

The South Carolina Criminal Justice Academy proposes to amend the regulation that addresses sanctions, R.37-108. Interested persons may submit comments to Imani Byas or Rebecca Williams, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, S.C. 29210. To be considered, comments must be received no later than 5:00 p.m. May 31, 2024, the close of the drafting period.

**Synopsis:**

S.C. Code Section 23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code Sections 23-23-10, et seq. The proposed regulation will define misconduct for the denial of certification of law enforcement officers.

Legislative review of this proposal will be required.

**STATE COMMISSION ON HIGHER EDUCATION**  
CHAPTER 62  
Statutory Authority: 1976 Code Section 59-112-100

**Notice of Drafting:**

The Commission on Higher Education proposes to amend the regulation that addresses the policies and procedures for administering the Determination of Rates of Tuition and Fees (South Carolina Residency) Program at the public and independent colleges and universities in the state. Interested persons may submit comments to Dr. Karen Woodfaulk, Director for the Office of Student Affairs, S.C. Commission on Higher Education, 1122 Lady Street, Suite, 400, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on Friday, May 31, 2024, the close of the drafting comment period.

**Synopsis:**

R.62-600 through 62-612 of Chapter 62 is being amended and replaced in its entirety. Revisions to the existing regulation for the SC Residency Regulation are being considered to clarify the policies and procedures for administering the program. The revisions seek to promote consistency among the State institutions and their residency classification processes.

Legislative review of this proposal will be required.

**STATE COMMISSION ON HIGHER EDUCATION**  
CHAPTER 62  
Statutory Authority: 1976 Code Section 59-149-130

**Notice of Drafting:**

The Commission on Higher Education proposes to amend the regulation that addresses the policies and procedures for administering the LIFE Scholarship & LIFE Scholarship Enhancement Program at the public and independent colleges and universities in the state. Interested persons may submit comments to Dr. Karen Woodfaulk, Director for the Office of Student Affairs, S.C. Commission on Higher Education, 1122 Lady Street, Suite, 400, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on Friday, May 31, 2024, the close of the drafting comment period.

**Synopsis:**

The South Carolina Commission on Higher Education proposes the following revisions to Chapter 62, R.62-1200.1 through 62-1200.75, LIFE Scholarship & LIFE Scholarship Enhancement Program. Revisions to the existing regulation for the LIFE Scholarship & LIFE Scholarship Enhancement Program are being considered to clarify the policies and procedures for administrating the program. The program regulation was last amended in 2022.

## 12 DRAFTING NOTICES

Revisions to the existing regulation are being considered to clarify the policies and procedures for administering the program. Proposed amendments are anticipated to include editing or rewriting sections so as to clarify language, improve upon understanding of the regulation and promote consistency in the administration of the scholarship program among the public and independent colleges and universities in the state.

Legislative review of this proposal will be required.

### STATE COMMISSION ON HIGHER EDUCATION

#### CHAPTER 62

Statutory Authority: 1976 Code Sections 59-104-20 and 59-104-25

#### Notice of Drafting:

The Commission on Higher Education proposes to amend the regulation that addresses the policies and procedures for administering the Palmetto Fellows Scholarship Program at the public and independent colleges and universities in the state. Interested persons may submit comments to Dr. Karen Woodfaulk, Director for the Office of Student Affairs, S.C. Commission on Higher Education, 1122 Lady Street, Suite, 400, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on Friday, May 31, 2024, the close of the drafting comment period.

#### Synopsis:

The Commission on Higher Education proposes to amend (R.62-300 through 375), the regulation that addresses the policies and procedures for administering the Palmetto Fellows Scholarship Program (Section 59-104-20 and 59-104-25) at the public and independent colleges and universities in the state. The program regulation was last amended in 2022.

Revisions to the existing regulation are being considered to clarify the policies and procedures for administering the program. Proposed amendments are anticipated to include editing or rewriting sections so as to clarify language, improve upon understanding of the regulation and promote consistency in the administration of the scholarship program among the public and independent colleges and universities in the state.

Legislative review of this proposal will be required.

### STATE COMMISSION ON HIGHER EDUCATION

#### CHAPTER 62

Statutory Authority: 1976 Code Section 59-150-370

#### Notice of Drafting:

The Commission on Higher Education proposes to amend the regulation that addresses the policies and procedures for administering the SC HOPE Scholarship at the public and independent colleges and universities in the state. Interested persons may submit comments to Dr. Karen Woodfaulk, Director for the Office of Student Affairs, S.C. Commission on Higher Education, 1122 Lady Street, Suite, 400, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on Friday, May 31, 2024, the close of the drafting comment period.

#### Synopsis:

The South Carolina Commission on Higher Education proposes the following revisions to Chapter 62, R.62-900.85 through 62-900.140, SC HOPE Scholarship Program. Revisions to the existing regulation for the

SC HOPE Scholarship Program are being considered to clarify the policies and procedures for administrating the program. The program regulation was last amended in 2021.

Revisions to the existing regulation are being considered to clarify the policies and procedures for administering the program. Proposed amendments are anticipated to include editing or rewriting sections so as to clarify language, improve upon understanding of the regulation and promote consistency in the administration of the scholarship program among the public and independent colleges and universities in the state.

Legislative review of this proposal will be required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
STATE ATHLETIC COMMISSION  
CHAPTER 20**

Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-81-40, and 40-81-70

**Notice of Drafting:**

The South Carolina State Athletic Commission proposes to amend regulations in Chapter 20 of the Code of Regulations following its five-year regulatory review conducted pursuant to S.C. Code Section 1-23-120. Interested persons may submit comments to the administrator for the commission, Jon Hollingsworth, State Athletic Commission, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, S.C. 29211-1329.

**Synopsis:**

The South Carolina State Athletic Commission proposes to amend regulations in Chapter 20 of the Code of Regulations following its five-year regulatory review conducted pursuant to S.C. Code Section 1-23-120.

Legislative review is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
STATE BOARD OF DENTISTRY  
CHAPTER 39**

Statutory Authority: 1976 Code Section 40-15-40

**Notice of Drafting:**

The South Carolina Board of Dentistry proposes to amend its regulations, appearing in Chapter 39 of the South Carolina Code of Regulations, following a comprehensive review conducted pursuant to S.C. Code Section 1-23-120(J). Proposed changes include, but are not limited to, continuing education credit for dental instructors, updated procedures allowed by dental hygienists, dental assistants and enhanced dental assistants, and temporary live-patient CE dental license. Interested persons may submit comments to Amy Holleman, Board Executive, Board of Dentistry, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, S.C. 29211-1329.

**Synopsis:**

The South Carolina Board of Dentistry proposes to amend its regulations, appearing in Chapter 39 of the South Carolina Code of Regulations, following a comprehensive review conducted pursuant to S.C. Code Section 1-23-120(J). Proposed changes include, but are not limited to, continuing education credit for dental

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instructors, updated procedures allowed by dental hygienists, dental assistants and enhanced dental assistants, and temporary live-patient CE dental license.

Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
OFFICE OF ELEVATORS AND AMUSEMENT RIDES  
CHAPTER 71**

Statutory Authority: 1976 Code Sections 41-16-140 and 41-18-120

### **Notice of Drafting:**

The South Carolina Department of Labor, Licensing and Regulation, Office of Elevators and Amusement Rides, proposes to amend its regulations, appearing in Chapter 71 of the South Carolina Code of Regulations, following a comprehensive review conducted pursuant to S.C. Code Section 1-23-120(J). Interested persons may submit comments to: Duane Scott, Sr., Office of Elevators and Amusement Rides, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211.

### **Synopsis:**

The South Carolina Department of Labor, Licensing and Regulation, Office of Elevators and Amusement Rides, proposes to amend its regulations, appearing in Chapter 71 of the South Carolina Code of Regulations, following a comprehensive review conducted pursuant to S.C. Code Section 1-23-120(J).

Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
SOUTH CAROLINA STATE BOARD OF FUNERAL SERVICE  
CHAPTER 57**

Statutory Authority: 1976 Code Sections 40-1-70 and 40-19-60

### **Notice of Drafting:**

The South Carolina Board of Funeral Service proposes to amend various sections of Chapter 57 of the Code of Regulation, including but not limited to changes necessary to conform to H.4116, which passed during the 2024 legislative session. Interested persons may submit comments to Matalie Mickens, Board Executive, Board of Funeral Service, Post Office Box 11329, Columbia, S.C. 29211-1139.

### **Synopsis:**

The South Carolina Board of Funeral Service proposes to amend various sections of Chapter 57 of the Code of Regulation, including but not limited to changes necessary to conform to H.4116, which passed during the 2024 legislative session.

Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
STATE BOARD OF MEDICAL EXAMINERS  
CHAPTER 81**

Statutory Authority: 1976 Code Sections 40-1-70, 40-47-5, and 40-47-10

**Notice of Drafting:**

The South Carolina Board of Medical Examiners proposes adding regulations establishing continuing education requirements for PAs. Interested persons may submit comments to Jessica Beise, Board Executive, South Carolina Board of Medical Examiners, 110 Centerview Drive, Columbia, SC 29210.

**Synopsis:**

The South Carolina Board of Medical Examiners proposes adding regulations establishing continuing education requirements for PAs.

Legislative review is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
STATE BOARD OF NURSING  
CHAPTER 91**

Statutory Authority: 1976 Code Sections 40-1-70 and 40-33-10(E), (I)

**Notice of Drafting:**

The South Carolina Board of Nursing proposes to amend various sections of Chapter 91 of the Code of Regulations. Interested persons may submit comments to Carol Moody, Board Executive, State Board of Nursing, Post Office Box 12367, Columbia, S.C. 29211-2367.

**Synopsis:**

The South Carolina Board of Nursing proposes to amend various sections of Chapter 91 of the Code of Regulations.

Legislative review is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
OFFICE OF OCCUPATIONAL SAFETY AND HEALTH  
CHAPTER 71**

Statutory Authority: 1976 Code Section 41-15-220

**Notice of Drafting:**

The South Carolina Department of Labor, Licensing and Regulation – Division of Occupational Safety and Health (SC OSHA) proposes to add to and/or amend its regulations regarding the Worker Walkaround Representative Designation Process. Interested persons may submit comments to Kristina Baker, Deputy Director, SC OSHA, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, S.C. 29211-1329.



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### Synopsis:

The South Carolina Department of Labor, Licensing and Regulation – Division of Occupational Safety and Health (SC OSHA) proposes to add to and/or amend its regulations regarding the Worker Walkaround Representative Designation Process. In the final rule, OSHA is amending its Representatives of Employers and Employees regulation to clarify that the representative(s) authorized by employees may be an employee of the employer or a third party; such third-party employee representative(s) may accompany the OSHA Compliance Safety and Health Officer (CSHO) when, in the judgment of the CSHO, good cause has been shown why they are reasonably necessary to aid in the inspection. In the final rule, OSHA also clarified that a third party may be reasonably necessary because of their relevant knowledge, skills, or experience with hazards or conditions in the workplace or similar workplaces, or language or communication skills. OSHA concluded that these clarifications aid OSHA's workplace inspections by better enabling employees to select representative(s) of their choice to accompany the CSHO during a physical workplace inspection. Employee representation during the inspection is critically important to ensuring OSHA obtains the necessary information about worksite conditions and hazards.

Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
SOUTH CAROLINA BOARD OF EXAMINERS IN OPTICIANRY  
CHAPTER 96**

Statutory Authority: 1976 Code Sections 40-1-70 and 40-38-60

### Notice of Drafting:

The Board of Examiners in Opticianry proposes to repeal R.96-104 as it is duplicative of statute and therefore unnecessary. The Board further proposes to amend R.96-108 to clarify the requirements for continuing education (CE) courses for licenses and the approval process for those courses, and to amend R.96-109 to delete the reference to a Board web address that is no longer active. Interested persons may submit comments to Patrice Deas, Board Executive, Board of Examiners in Opticianry South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, S.C. 29211-1329.

### Synopsis:

The Board of Examiners in Opticianry proposes to repeal R.96-104 as it is duplicative of statute and therefore unnecessary. The Board further proposes to amend R.96-108 to clarify the requirements for CE courses for licenses and the approval process for those courses, and to amend R.96-109 to delete the reference to a Board web address that is no longer active.

Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
STATE BOARD OF PHARMACY  
CHAPTER 99**

Statutory Authority: 1976 Code Sections 40-1-70, 40-43-60(D)(5) and (8), 40-43-83(I), and 40-43-86(B)(3)(c)

### Notice of Drafting:

The South Carolina Board of Pharmacy proposes amending various sections of Chapter 99, to include changes required to conform to H.3592, which passed during the 2024 legislative session. Interested parties may submit

comments to Holly Beeson, Counsel to the Office of Communications and Governmental Affairs, South Carolina Board of Pharmacy, Post Office Box 11329, Columbia, SC 29211.

**Synopsis:**

The South Carolina Board of Pharmacy proposes amending various sections of Chapter 99, to include changes required to conform to H.3592, which passed during the 2024 legislative session.

Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
SOUTH CAROLINA REAL ESTATE APPRAISERS BOARD  
CHAPTER 137**

Statutory Authority: 1976 Code Sections 40-1-70, 40-60-10(I), and 40-60-38

**Notice of Drafting:**

The South Carolina Real Estate Appraisers Board proposes to amend Chapter 137 to conform to H.3278, passed in 2024 and to make various other changes. Interested persons may submit written comments to Laura Smith, Board Executive, Board of Real Estate Appraisers Board, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

**Synopsis:**

The South Carolina Real Estate Appraisers Board proposes to amend Chapter 137 to conform to H.3278, passed in 2024 and to make various other changes.

Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
BOARD OF VETERINARY MEDICAL EXAMINERS  
CHAPTER 120**

Statutory Authority: 1976 Code Section 40-69-60

**Notice of Drafting:**

The South Carolina Board of Veterinary Medical Examiners proposes to amend Chapter 120 of the Code of Regulations to make changes regarding continuing education requirements. The Board intends to review and will considering adding to, amending or repealing other sections of Chapter 120. Interested persons may submit written comments to Amy Holleman, Board Executive, Board of Veterinary Medical Examiners, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, S.C. 29211-1329.

**Synopsis:**

The South Carolina Board of Veterinary Medical Examiners proposes to amend Chapter 120 of the Code of Regulations to make changes regarding continuing education requirements. The Board intends to review and will considering adding to, amending or repealing other sections of Chapter 120.

Legislative review of this amendment is required.

## 18 DRAFTING NOTICES

**PUBLIC SERVICE COMMISSION**  
CHAPTER 103  
Statutory Authority: 1976 Code Section 58-3-140

### **Notice of Drafting:**

The Public Service Commission is reviewing Regulation 103-833 Written Interrogatories and Request for Production of Documents and Things that is contained within Chapter 103, Article 8, Practice and Procedure. Interested persons may submit comments to the Public Service Commission, Clerk's Office, 101 Executive Center Drive, Suite 100, Columbia, South Carolina 29210. Please reference Docket No. 2024-146-A. To be considered, comments must be received no later than 4:45 p.m. on June 28, 2024.

### **Synopsis:**

The Public Service Commission will file a proposed regulation that amends Regulation 103-833(A) to read, "Any material relevant to the subject matter involved in the pending proceeding may be discovered unless the material is privileged or is hearing preparation working papers or attorney work product prepared for the pending proceeding or in anticipation of litigation." The scope of this proposal is broadened with the inclusion of working papers or attorney work product prepared for the pending proceeding or in anticipation of litigation.

Legislative review of this proposal will be required.

Document No. 5181  
**DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS**  
 CHAPTER 88  
 Statutory Authority: 1976 Code Section 44-20-220

Article 4. Day Programs for Persons with Intellectual Disability.

**Synopsis:**

The Department of Disabilities and Special Needs proposes to amend Article 4 to provide the procedure for the administration of day programs provided by the Department of Disabilities and Special Needs. Specific sections amended are 88-405, Definitions; 88-410, Personnel; 88-415, Facility; 88-420, Transportation; 88-425, Medical Care; 88-430, Evaluations; 88-435, Program; and 88-440, Records.

Section-by-Section Discussion:

88-405. Technical Changes to Definitions and Removing Obsolete References.

88-410.

- A. Updating to Current Law and Procedures.
- B. Updating to Current Law and Procedures.
- C. Technical Changes.
- D. Deleted.

88-415. Deleted.

88-420.

- A. Updating to Current Law and Procedures.

88-425.

- A. Updating to Current Law and Procedures.
- B. Updating to Current Law and Procedures.
- C. Updating to Current Law and Procedures.
- D. Updating to Current Law and Procedures.

88-430. Deleted.

88-435.

- A. Updating to Current Law and Procedures.
- B. Updating to Current Law and Procedures.
- C. Updating to Current Law and Procedures.
- D. Added.
- E. Added.
- F. Added.

88-440.

- A. Updating to Current Law and Procedures.
- B. Deleted.
- C. Deleted.
- D. Deleted.

The Notice of Drafting was published in the *State Register* on August 26, 2022.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

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### Text:

#### ARTICLE 4 SETTING AND PROGRAM REQUIREMENTS

##### 88-405. Definitions.

A. Adult Activity Center: A goal-oriented program of developmental, prevocational Services designed to develop, maintain, increase or maximize a Participant's functioning in activities of daily living, physical growth, emotional stability, socialization, communication, vocational skills, and/or community participation.

B. Critical Incident(s): An unusual or unfavorable occurrence that is not consistent with routine operations; has a harmful or negative effect on Participants, employees, or property; and occurs in a DDSN Regional Center, Facility Based Setting, or Community Integrated Setting during the direct administration of DDSN sponsored Services.

C. Developmental Intervention and Training Services Program: A service setting designed for youth, ages six (6) to twenty-one (21), who are eligible for DDSN sponsored Services and are in need of individualized, intensive, multi-modal support for acquisition or improvement of social, vocational, and/or educational functioning to prevent hospitalization, institutionalization, or out-of-home placement.

D. First Aid Kit: A collection of supplies which includes, but is not limited to: mild hand soap; cotton tipped applicators; gauze bandages, one and two inch widths; sterile gauze, three inch by three inch; band-aids; adhesive tape; scissors; disinfectant; and thermometer.

E. Program Director: A designated individual responsible for ensuring a Participant's health and safety, while receiving DDSN sponsored Services and supports.

##### 88-410. Personnel.

###### A. Qualifications of Staff

(1) Program Director: The Program Directors shall meet the following minimum qualifications:

(a) Be at least twenty-one (21) years old; and

(b) Have a four (4) year degree from an accredited college or university in the human services field or related field and two (2) years' experience in administration or supervision in the human services field; or

(c) Have a master's degree from an accredited college or university in the human services field or related field and one (1) year's experience in administration or supervision in the human services; and

(d) Have references from past employment.

(2) Direct Support Professional: DSPs will meet the following qualifications:

(a) Be at least eighteen (18) years old;

(b) Have a valid high school diploma or its certified equivalent; or have demonstrated competency for effective communication with Participants, the provision of appropriate care and supervision, and implementation of skills training; and

(c) Have references from past employment if the person has a work history.

(3) All Staff: All staff shall meet the following qualifications:

(a) Meet requirements for criminal background checks, abuse registry checks, and Medicaid exclusion checks;

(b) Have Tuberculosis Screening and Testing in accordance with current recommendations from the Centers for Disease Control;

(c) Have a valid Driver's License if duties require transportation of Participants;

(d) Be capable of aiding in the activities of daily living and implementing the plan of each individual for whom they are responsible;

(e) Be able to effectively communicate, in English, verbal and written information; and

(f) Be trained and be deemed competent in accordance with Department policies.

#### B. Participant Supervision/Staff Ratios

(1) Supervision of a Participant in the setting or program will be provided based on the type and amount of supervision required by the Participant which is determined by assessment and documented in the Participant's record.

(2) Day Services-Adult Activity: There shall be at least the following minimum Participant supervision/staff ratios:

(a) Developmental Intervention and Training Services Program – 4:1;

(b) Community Integrated Setting – 5:1;

(c) Facility Based Setting – 8:1;

(3) Residential Services: Sufficient staff shall be available 24 hours daily to render supports and respond to the needs of the Participants.

(4) Each program shall have provisions for alternate coverage for staff who are unable to fulfill their job responsibilities.

C. There will be a staff development/in-service education program operable by each Qualified Provider, in accordance with Department policies, which requires participation in new employee orientation, in-service education programs, and staff development opportunities from all staff and anyone contracted to provide direct supports to Participants.

88-415. Repealed.

88-420. Transportation.

A. If transportation is provided, vehicles used for the transportation of Participants shall be safe for the passengers.

B. Vehicles shall be maintained in safe operable condition. Records of maintenance and repairs shall be documented and available upon request.

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C. Each passenger shall have adequate seating space and shall use an age appropriate seat belt or restraint system approved by the Highway Traffic Safety Administration Standards.

D. Each vehicle shall have a First Aid Kit which is replenished after each use and checked monthly for completeness.

E. For vehicles that transport more than four (4) participants at one time, a fire extinguisher, which is in good working order, must be securely fastened in a manner which is easily accessible to the driver.

F. Vehicle operators and all staff including any person under contract who transports Participants will be licensed drivers who are capable of handling road emergencies and hazards.

(1) There shall be a current defensive driving course certificate on file for all staff and any person under contract to provide Services within one month of their start date; or

(2) If there was no defensive driving course offered within first month, this must be notated and the staff or person under contract must take and pass the first course offered following their start date.

88-425. Medical Care.

### A. Routine Medical Care

(1) Prior to and on the first day of service, the Participant's medical condition shall be known by the Qualified Provider, including but not limited to:

- (a) Diagnosis and conditions;
- (b) Allergies;
- (c) Medications/treatments to be given;
- (d) Medical equipment or assistive devices;
- (e) Diet consistency; and
- (f) Body positioning.

(2) Any evidence of illness or injury observed during Service provision shall be documented in the Participant's record and action shall be taken to obtain necessary medical treatment of the Participant and to safeguard others from the contagion.

### B. Medications/Treatments

(1) Medications/treatments shall be safely and accurately administered.

(2) Medications/treatments shall be administered by a licensed nurse; unlicensed staff, as allowed by law, with evidence of successful completion of an approved Medication Technician Curriculum; or the Participant for whom the medication is prescribed when he/she is assessed as independent.

(3) When medications are not under the control of Participants, the medication to be administered shall be stored in a locked cabinet container not accessible to unauthorized persons. Prescribed medication shall be kept in the original containers bearing the pharmacy label which shows drug name, the prescription number, date filled, physician's name, directions for use, and the patient's name.

(4) For Participants not independent in taking their own medications/treatments, a log shall be maintained to denote:

- (a) A valid physician's order indicating the dosage, route, and time for the medication/treatment;
- (b) The name of medication/treatment;
- (c) The name of the individual administering the medication/treatment;
- (d) The time the medication/treatment was administered; and
- (e) The dosage and/or length of time the medication/treatment was administered.

(5) Medications/Treatments should be administered in accordance with Department policies.

C. Emergency Medical Care: A written plan for emergency medical services shall be developed to meet Participant's needs. This shall include the name(s) of emergency contacts for each Participant and a means of transportation for emergency medical care. If a physician's services are not immediately available and the Participant's condition requires immediate medical attention, transportation to the nearest medical emergency facility shall be secured. Written permission from each Participant or legal guardian, if applicable, authorizing such care shall be on file with the agency.

#### D. First Aid

- (1) A First Aid Kit shall be maintained at each service setting program site.
- (2) All DSPs will be trained in American Red Cross first aid procedures (either basic or standard first aid) within the first month of employment for new employees.
- (3) All staff will be trained in a Cardiopulmonary Resuscitation ("CPR"), approved through the American Red Cross or American Heart Association, within the first month of employment for new employees.

88-430. Repealed.

88-435. Service Plans.

- A. The Participant must be determined to require or likely benefit from the DDSN sponsored Services.
- B. Prior to or on the first day of Service provision, a preliminary plan for the participant must be developed to outline the interventions and supports required by the participant until the initial plan is developed.
- C. Plan: Each participant will have a written, person-centered plan developed, that outlines the Services, supports, and interventions to be provided. The plan shall be developed by the Participant and his/her Individual Support Team within thirty days (30) of the first date of service.
  - (1) The plan will document the date and signature of the Participant and the Individual Support team members in attendance during the development of the plan.
  - (2) The plan will identify and contain a description of the Participant's preferences and interests; the Participant's needs and goals; and the support and interventions to be provided.
  - (3) The plan will encourage the Participant's movement towards independence, including but not limited to, employment and community integration.



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(4) At least monthly, the plan is monitored by the Program Director or the director's designee to determine the plan's effectiveness.

(5) The plan shall remain current at all times, but at a minimum, the plan will be reviewed and updated by the Participant with the Participant's Individual Support Team every 12 months.

D. When a Service is provided, a detailed description of the Service must be documented.

E. The Services offered at the program will be based on Participants' abilities/strengths, interests/preferences, and needs/supports. Activities should be age appropriate and allow for choice by each Participant.

F. The service program may not offer Services in a licensed residential setting, in the home of a Participant, or any other residential setting.

88-440. Records.

A. Administrative: The following records will be maintained in accordance with Department policies and shall be readily available for review:

(1) Individual personnel records on each staff member or contracted employee which contain:

(a) Tuberculosis Screening and Testing in accordance with current recommendations from the Centers for Disease Control;

(b) Signed application form or other statement of educational history and employment history;

(c) Job description;

(d) Criminal background checks in accordance with state and federal laws and per Department policies;  
and

(e) References from past employment, if applicable.

(2) Written policies on:

(a) Access to, duplication of, and dissemination of information from Participants records or about a Participant;

(b) The Prohibition of the use of physical, mechanical, or chemical restraint unless used in accordance with Department policy;

(c) The prohibition of corporal punishment;

(d) The prohibition of isolation rooms;

(e) Retention of records;

(f) Use of volunteers;

(g) Program evaluation;

(h) Administration and discharge of Participants;

- (i) Admission and discharge of Participants;
  - (j) Personnel practices;
  - (k) Procedures to be followed when a Participant is discovered to be missing;
  - (l) Prohibition of abuse, neglect, and exploitation which also includes reports of any and all abuse, neglect, and exploitation to appropriate state agencies and to the Department;
  - (m) Reporting of Critical Incidents consistent with Department policy; and
  - (n) The termination of Participants from a Service which includes:
    - (i) A list of reasons for dismissal; and
    - (ii) Methods of averting the termination.
- (3) Participant: A record shall be maintained for each Participant which contains, at a minimum, the items listed below. All documents and entries shall be legible, dated, and signed by the person making the entry. All records shall be securely maintained and in compliance with the US Health Insurance Portability Accountability Act (HIPAA).
- (a) Current Plan as required by R.88-435 A.;
  - (b) Documentation and/or data to support the implementation of the Plan and reimbursement for Services rendered;
  - (c) Record of unusual behavior incidents which are recorded at the time of occurrence;
  - (d) Authorization for emergency medical services; and
  - (e) Record of critical incidents.
- (4) Maintenance of Records: After a Participant's discharge or dismissal from a service program, or the Participant's death, the Participant's records shall be retained and disposed of in accordance with Department policy.
- (5) Monthly summary notations of progress;

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

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

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Document No. 5180  
**DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS**  
CHAPTER 88  
Statutory Authority: 1976 Code Section 44-20-220

Article 2. Definitions.

### **Synopsis:**

The Department of Disabilities and Special Needs proposes to repeal Article 2 in its entirety, as it is no longer needed following the amendments made to the other articles adding a relevant definitions section. Therefore, the Department of Disabilities and Special Needs proposes to repeal Article 2 in its entirety.

### Section-by-Section Discussion:

Repeal Article 2 in its entirety.

The Notice of Drafting was published in the *State Register* on August 26, 2022.

### **Instructions:**

Print the regulation as shown below. All other items remain unchanged.

### **Text:**

88-210. Repealed.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

This article is repealed to prevent redundancy in the proposed regulations, which are intended to clarify and state Department roles and procedures.

Document No. 5179  
**DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS**  
CHAPTER 88  
Statutory Authority: 1976 Code Section 44-20-220

Article 1. License Requirement for Facilities and Programs.

### **Synopsis:**

The Department of Disabilities and Special needs proposes to amend Article 1 to provide guidance on license requirements for settings and programs provided by the Department of Disabilities and Special Needs. All sections have been amended and new sections have been added to Article 1.

### Section-by-Section Discussion:

88-105. Adding Definitions Section. Subsequent Sections are re-ordered.

- 88-110.
  - A. Adding Disabilities Covered. Updating Name of Department.
  - B. Adding (5).
  - C. Amending.
  - D. Amending.
  - E. Updating Name of Department.
- 88-115.
  - A. Technical Changes.
  - B. Technical Changes.
  - C. Amending.
  - D. Technical Changes.
  - E. Amending.
- 88-120.
  - A. Amending.
- 88-125.
  - A. Amending.
  - B. Amending.
  - C. Amending.
  - D. Amending.
  - E. Amending.
- 88-130. Amending.
- 88-135. Amending.
- 88-140. Amending.
- 88-145. Adding Annual Licensing Inspections Section.
- 88-150. Adding License Types Section.
- 88-155. Adding Setting Closure Section.
- 88-160. Adding Violations Classifications Section.
- 88-165. Adding Non-Compliance with Licensing Requirements Section.
- 88-170. Adding Provisional License Section.
- 88-175. Re-ordering 88-125 and Amending.

The Notice of Drafting was published in the *State Register* on August 26, 2022.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

ARTICLE 1  
LICENSE REQUIREMENT FOR SETTINGS AND PROGRAMS

- 88-105. Definitions.
  - A. Annual: Within a 12-month time period.
  - B. Candidate: Any Qualified Provider who has applied for a License from the Department.
  - C. Community Integrated Setting (CIS): A physical location based in the community that does not meet the definition of an FBS, at which DDSN sponsored Services are delivered to Participants in accordance with Department policies, excluding the locations of a licensed residential setting, the home of the Participant(s), or any other residential setting.

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D. Day Services Program: DDSN sponsored Services, defined by the standards of the Department that are operated in a licensed service setting.

E. Direct Support Professional (DSP): Any employee or any person under contract whose job description indicates the duty of directly working with Participants.

F. Department: The South Carolina Department of Disabilities and Special Needs (DDSN).

G. Facility Based Setting (FBS): A physical location, owned by, operated by, or under the control of a Qualified Provider, at which DDSN sponsored Services are delivered to Participants in accordance with Department policies.

H. License: A document issued by the Department to the Qualified Provider indicating that the Licensee is in compliance with the provisions set forth in accordance with these regulations and within the Department's policies.

I. Licensee: The Qualified Provider who holds the primary responsibility for providing DDSN sponsored Services and maintaining compliance with these regulations and the Department's policies.

J. Licensor: The Department.

K. Participant: An individual, in the State, with an Intellectual Disability or a Related Disability (ID/RD), Autism Spectrum Disorder (ASD), Head Injury, Spinal Cord Injury (SCI), and Similar Disability (SD) who has been deemed eligible for Services by the Department and who is participating in or is on the waiting list for DDSN sponsored Service(s).

L. Qualified Provider: An organization either public or private which is operated by a board of directors or other governing body and which offers DDSN sponsored Services, pursuant to a contract with the Department, to individuals with an Intellectual Disability or a Related Disability (ID/RD), Autism Spectrum Disorder (ASD), Head Injury, Spinal Cord Injury (SCI), and Similar Disability (SD) in accordance with Department policies.

M. Residential Services: as defined by the DDSN Residential Habilitation Standards, is provided in each of models for residential support listed below:

- (1) Community Training Home-I (CTH-I)
- (2) Community Training Home-II (CTH-II)
- (3) Supervised Living Program-II (SLP-II)
- (4) Community Inclusive Residential Services (CIRS)

N. Service(s): Person-centered support(s) provided to increase independence, socialization, employment, community integration, prevent institutionalization, and maintain the Participants' health and safety in the least restrictive environment.

O. State Director: The head of the Department or their designee.

88-110. Scope.

A. No DDSN Sponsored program shall be operated in part or in full for the care, maintenance, education, training, or treatment of more than two persons with Intellectual Disability or a Related Disability (ID/RD), Autism Spectrum Disorder (ASD), Head Injury, Spinal Cord Injury (SCI), and Similar Disability (SD), unless a

license is first obtained from the Department. “In part” shall mean a program operating for at least ten (10) hours a week.

B. Specifically excluded from this requirement is any program which is:

- (1) Operated by an agency of “the state”;
- (2) An integral part of a public or private school or center which is licensed, certified, or accredited by the South Carolina Department of Education or is sponsored by a school district;
- (3) Licensed as a community residential care facility, skilled care facility, intermediate care facility, or hospital;
- (4) A day care center licensed by the Department of Social Services; or
- (5) Clinical programs operating under the guidance of a Licensed Practitioner of the Healing Arts with program activities designed to provide therapeutic benefits towards a physical or mental health diagnosis.

C. No setting or program shall accept Participants for care, maintenance, education, training, or treatment other than that for which it is licensed.

D. It is intended that the Department not duplicate other State agency programs or develop service modalities which normally would be considered to be the legal and programmatic mandate of another State agency.

E. All Licensees will meet the statutory standards prohibiting abuse, neglect, or exploitation of adult or child Participants and are expected to comply with State law concerning the reporting of known or suspected cases to the appropriate State authority and to the Department if the victim is a DDSN Participant.

#### 88-115. Licenses Issued.

A. A License is issued to settings and programs which are in compliance with these regulations.

B. A License may be issued for new settings and programs or those found to be out of compliance upon receipt of an acceptable plan of correction for eliminating deficiencies identified in the official licensing survey. The plan must show that the deficiency will be corrected within a thirty (30) day period. An extension may be granted for another thirty (30) days when requested in writing and with good cause shown.

C. All settings are subject to inspection or investigation at any time without prior notice by entities authorized by the South Carolina Code of Laws and the Department. Entities authorized by the Department shall be granted access to all properties and areas, objects, and records at the time of the inspection. Photocopies, when required as a part of the inspection, shall be used for the purposes of regulation enforcement. Photocopies shall be confidentially maintained. The spaces and areas to be physically inspected shall be determined by the entity.

D. The License will specify the name of the Licensee, the maximum number of Participants to be present at the setting at one time, and the type of program it is determined to be. The setting or program type is designated as follows:

- (1) Developmental Intervention and Training Services Program;
- (2) Day Services – Adult Activity;
- (3) Day Services – Unclassified Setting;

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- (4) Residential Services – CTH-I;
- (5) Residential Services – CTH-II;
- (6) Residential Services – SLP-II.

E. A Qualified Provider may request an opinion or an interpretation of the application of any regulation by making a written request to the Department.

#### 88-120. Effective Date and Term of License.

A License will be effective for up to a period not to exceed twelve (12) months, beginning with the date of issuance.

#### 88-125. Applications for License.

A. Applications for License shall be made to the Department at [license@ddsn.sc.gov](mailto:license@ddsn.sc.gov).

B. The appropriate forms for licensing will be made available by the Department. Qualified Providers requesting a License shall file an application under oath on a form specified by the Department. An application shall be signed by the Chief Executive Officer. The application shall set forth the full name and address of the setting for which the License is sought and the owner(s) and such additional information as the Department may require, including affirmative evidence of ability to comply with reasonable standards, rules, and regulations as may be lawfully prescribed.

C. A licensing application shall be reviewed by the Department prior to a DDSN licensing contractor inspecting the setting and prior to the Department issuing a License to the setting, and a licensing application shall include the following:

- (1) Documentation of a fire safety inspection conducted by the State Fire Marshall's Office;
- (2) Documentation of an electrical inspection conducted by a licensed electrician;
- (3) Documentation of a heating, ventilation, and air-conditioning (HVAC) inspection conducted by a licensed inspector;
- (4) If not on a public water line, documentation of a water quality inspection conducted by the South Carolina Department of Health and Environmental Control (DHEC).
- (5) When the setting is a Residential Services settings supporting children, documentation of a health and sanitation inspection conducted by an appropriate entity.
- (6) For settings supporting children under six (6) years of age, documentation of a lead-paint risk assessment conducted by DHEC.
- (7) Documentation of any Licenses held by the Qualified Provider for the setting or program and/or information about plans to acquire additional Licenses. The Department shall not issue a License to a setting or program that is licensed to another entity.
- (8) For Day Service settings involving food preparation, documentation of a current permit from DHEC.

D. Qualified Providers who plan to construct a new setting or current Licensees who plan extensive renovations shall submit complete plans for construction or changes for prior approval to the Office of the State Fire Marshal.

88-130. Exceptions.

A. The State Director may approve an exception to compliance with one or more of the requirements of these regulations if, in the Department's judgment, the exception would not endanger the safety of the Participants, staff, or the public, and would not reduce significantly the quality or quantity of the Services to be provided.

B. To request an exception, the Licensee must make a written request to the State Director which includes the justification for the request for an exception and must first be reviewed by appropriate Department staff with the approval of the State Director.

C. The request for an exception will also contain a plan for compliance with the regulation which will include a date when the regulation will be met.

D. An exception shall be effective for the duration specified in the approval from the State Director as long as the requirements are maintained.

88-135. Validity of License.

A. A License cannot be sold, assigned, or transferred, nor shall it be valid for any premises other than those for which it was issued.

B. A License shall be considered invalid if any of the information provided to the Department in the Licensing Application for the setting or program is not accurate and current.

C. No setting or program shall have present more Participants than approved and so stated on the face of the License.

88-140. Separate Licenses.

A. A separate License is required for programs operated in an FBS even though they are operated by the same Licensee or agency.

B. When two or more defined programs are operated on the same premises or building, a separate License is required and must be obtained for each program.

88-145. Annual Licensing Inspections.

A. On-site licensing inspections shall include, but not be limited to:

(1) Water measurement to ensure temperatures are:

(a) No less than 100°F; and

(b) No more than 120°F in a setting if a Participant is unable to independently regulate the water temperature.

(2) Assurance of the presence of a standard first-aid kit that is readily accessible and well stocked for the number of Participants who are intended to use it.



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(3) Determination that the setting or program is free from obvious hazards, including a determination that the setting is clean, free of litter/rubbish, free of offensive odors, has equipment in a good working order, provides each Participant with sufficient space for privacy, including but not limited to assurances of a toilet behind a lockable door and lockable storage.

(4) Assurance that household cleaning agents are kept in a secure location and away from food and medications.

### 88-150. License Types.

#### A. Day Services

(1) Day Services – Adult Activity; or

(2) Day Services – Unclassified Setting.

(a) Licensees may render Services in an FBS or in a CIS.

(3) A Day Service Program may not offer Services in a licensed residential setting, in the home of a Participant, or any other residential setting.

#### B. Facility Based Setting: FBS shall:

(1) Provide a minimum of fifty (50) square feet of program space per Participant in attendance.

(2) Provide assurance of compliance with appropriate sanitation regulations of DHEC, which are current on the date of inspection. A current certificate of inspection shall be maintained in the FBS's records.

(3) Provide assurance of compliance with the regulations and appropriate standards for fire safety as set forth by the South Carolina Office of State Fire Marshall codes. Report of an approved fire safety inspection completed by the Office of State Fire Marshall shall be maintained in the FBS's records.

(a) Each FBS shall post, in a place clearly visible, a diagrammatic plan for evacuation of the building in case of disaster. All employees shall be instructed and kept informed regarding their duties under the plan.

(b) Each FBS shall hold fire/disaster drills at least once each quarter. Each drill conducted shall be recorded as to the date of the drill, start time, number of those participating, and the total time required for evacuation. The record shall be signed by the person conducting the drill.

(c) Passageways shall be free of obstructions at all times.

(d) All staff shall be instructed in the proper use of fire extinguishers as documented in reports.

(e) The use of electrical extension cords is prohibited.

(f) FBSs which have Participants and/or staff who are hearing impaired shall develop a fire alarm system to ensure the Participants and/or staff are alerted to the danger of fire.

(4) Provide assurance of a safety check on electrical systems conducted by either a licensed or certified electrician or contractor with the written report kept on file at the FBS at all times. A new inspection shall be made after any expansion, renovation, or addition of any major electrical appliances or equipment.

(5) Provide assurance of an Annual inspection of the FBS by a licensed or certified HVAC contractor with the written report kept on file at the FBS at all times. Floor furnaces shall have adequate protective coverings or guards to ensure that individuals coming into contact with them shall not be burned. If space heaters are used, they shall be vented properly and screens or other protective devices shall be provided to prevent individuals from coming into contact with the heaters.

(6) Provide assurance of safety:

(a) All staff shall be knowledgeable of utility cut-offs throughout the FBS.

(b) All cleaning equipment supplies, insecticides, etc. shall be in a locked cabinet or located in an area not accessible to unauthorized persons.

(c) Furniture, equipment, training, and support materials shall be age appropriate; shall not be covered with toxic paint; and shall present minimal hazards to participants.

(d) Recreational equipment shall be firmly anchored.

(e) The use of tools and equipment by Participants shall be supervised by Direct Support Professionals (DSPs) in accordance with the Participant's abilities.

(f) In the presence of unusual hazards arising from certain work operations, appropriate safety precautions shall be taken to ensure the protection of those present.

C. When a Licensee renders Services in a CIS, the Licensee shall ensure any:

(1) Provider-controlled setting that is used as a point of origination, or an alternate program space for a CIS has adequate seating and person space for each Participant, including restrooms.

D. Residential Services Settings

(1) Residential Services – CTH-I

(2) Residential Services – CTH-II

(3) Residential Services – SLP-II

(4) Each Residential Services setting shall obey all federal, state, and local ordinances, including, but not limited to:

(a) An Annual inspection must be completed by the Office of State Fire Marshal.

(b) The bedrooms shall have operable lighting.

(c) The bedrooms shall have operable window(s).

(d) Sufficient bedrooms such that no more than two Participants occupy a single bedroom. Bedrooms shall have at least 100 square feet for a single occupancy or 160 square feet for a double occupancy.

(e) Bedrooms shall have a clean, comfortable bed, including an appropriately sized bed frame and mattress; a pillow; and linen appropriate to the climate.

(f) The setting shall afford each Participant sufficient space for privacy, including:

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(i) an area to bathe and toilet behind a lockable door.

(ii) lockable doors on bedrooms/sleeping quarters and lockable storage.

(g) The setting shall have a flashlight available on each floor level.

(h) Pets at the setting shall be current with vaccinations.

(i) Participants shall be encouraged to eat a nourishing, well balanced diet which includes personal food preference; allows desirable substitutions; and meets dietary requirements of Participants.

(j) Electrical and HVAC inspections are completed after renovations to the setting.

(k) The setting is physically accessible.

### 88-155. Setting Closure.

A. At least thirty (30) calendar days prior to the permanent closure of a residential setting, the Licensee shall notify the Department in writing of the intent to close and the effective closure date. Within ten (10) calendar days of the closure, the setting shall notify the Department of the provisions and maintenance of the records as required by regulation, the identity of those Participants displaced, and the relocated setting.

B. In instances where a setting temporarily closes, the Licensee shall notify the Department in writing within fifteen (15) calendar days prior to temporary closure. In the event of temporary closure due to an emergency, the setting shall notify the Department in writing within twenty-four (24) hours of the closure. The notification shall include the manner in which records are being stored, the identity of those Participants displaced, the relocated setting, and the anticipated date of reopening. The Department shall consider, upon appropriate review, the necessity of inspecting and determining the applicability of current construction standards to the setting prior to its reopening.

### 88-160. Violation Classifications.

A. Violations of standards in this regulation are classified as follows:

(1) Class I violations are those that the Department determines to be an imminent danger to the health and safety of the Participants in the setting or a substantial probability that death or serious physical harm could result therefrom. A physical condition, one or more practices, means, methods, or operations in use in a setting 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.

(2) Class II violations are those, other than Class I violations, that the Department determines to be a negative impact on the health, safety, or well-being of Participants in the setting.

(3) Class III violations are those that are not classified as Class I or II in this regulation or those that are against the best practices as interpreted by the Department.

### 88-165. Non-Compliance with Licensing Requirements.

A. A setting found to be in non-compliance with the standards of this regulation shall submit an acceptable written plan of correction to the Department or its contractor by the date specified by the Department. The written plan of correction shall describe:

(1) The actions taken to correct each cited deficiency;

(2) The actions taken to prevent recurrences both actual and similar; and

(3) The intended completion date of those actions, which shall not exceed thirty (30) days from the date of the report of findings.

88-170. Provisional License.

At the Department’s discretion, a Provisional License may be issued for settings with deficiencies affecting the health, safety, or welfare of Participants. Provisional Licenses are time-limited and location specific. Provisional Licenses may be granted for new settings or for existing settings while developing corrective action plans for deficiencies cited by the Department or its contractor.

88-175. Denial, Suspension, or Revocation of License.

A. The Department may deny, suspend, or revoke a license on any of the following grounds:

(1) Failure to establish or maintain proper standards of care and service as prescribed in DDSN directives and individual service standards;

(2) Conduct or practices detrimental to the health or safety of residents, Participants, or employees of any such settings or programs;

(3) Any violations of applicable laws and regulations.

B. Denial of a License: In the case of denial of an application for License, the Department shall inform the Candidate by registered mail within thirty (30) days of the formal licensing survey of the justification for refusal to issue a License. This denial notification shall contain an explanation for the denial and shall advise the Candidate of their rights to hearings and appeals.

C. Suspension or Revocation of License

(1) If an existing setting or program has conditions or practices which, in the Department’s judgment, provide a threat to the safety and/or welfare of Participants, the Department may immediately suspend or revoke the License of the setting or program. Upon receipt of notification from the Department, the Licensee will cease operation immediately. The Licensee will be notified by mail of the suspension or revocation. The notification shall contain the reason(s) for the revocation or the conditions of suspension. Any Qualified Provider operating a program which has had its License suspended or revoked shall be liable to the penalties provided by law. The Licensee shall at the time of notification, be advised of the right to a fair hearing and the appeal process.

(2) The Department shall notify the Licensee by registered mail, stating the reasons for the suspension or revocation of the License, and shall advise the Licensee of their rights to hearings and appeals.

(3) For any suspension or revocation of a License except as noted by R. 88-175C (1), the License shall be considered terminated at midnight on the fifteenth calendar day following the mailing of the written notification, unless the Licensee shall give written request of their desire for an appeal hearing. If such a request is received by the Department within ten (10) calendar days from the date notification was sent to the Licensee, the Licensee may continue operation until a final decision is reached. If, at the hearing, the decision is made to suspend or revoke a License, the program will have fifteen (15) calendar days to cease operation.

**Fiscal Impact Statement:**

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

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### Statement of Rationale:

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

Document No. 5182  
**DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS**  
CHAPTER 88  
Statutory Authority: 1976 Code Section 44-20-220

Article 9. Unclassified Facilities and Programs.

### Synopsis:

The Department of Disabilities and Special Needs proposes to amend Article 9 to provide guidance on the application requirements and determination process regarding the licenses for unclassified settings and programs provided by the Department of Disabilities and Special Needs. Specific sections edited are Regulations 88-910, Unclassified Facilities and Programs; 88-915, Application for License of an Unclassified Program; and 88-920, Determination by the Department.

#### Section-by-Section Discussion:

88-910. Updating to Current Law and Procedure.

88-915. Updating to Current Law and Procedure.

88-920. Updating to Current Law and Procedure.

The Notice of Drafting was published in the *State Register* on August 26, 2022.

### Instructions:

Print the regulation as shown below. All other items remain unchanged.

### Text:

ARTICLE 9  
UNCLASSIFIED SETTINGS AND PROGRAMS

88-910. Unclassified Settings and Programs.

A. An unclassified setting or program is one which:

- (1) Under the provisions of Section 88-110 A. must be licensed, and
- (2) Is substantially different from settings and programs classified and defined in these regulations.

B. There shall be at least the following minimum Participant supervision/staff ratios – 10:1

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

A. Application for license shall be made as required by R. 88-115. Such application shall contain specific and detailed information on the following:

- (1) Name, mailing address, and location of setting or program;

- (2) Name and address of the Qualified Provider;
- (3) Name and address of the owner or Chairman of the Board of Directors;
- (4) Description of Services to be provided; and
- (5) Number and general description of Participants to be served.

88-920. Determination by the Department.

A. In making a determination as to whether or not a setting or program should be licensed, the Department shall foster the health, safety, and welfare of the Participants being served. The Department shall consider the health and safety provisions required by the regulations for classified settings and/or programs, and such other factors as may be appropriate to the Candidate setting or program.

B. The Department will grant a License to such unclassified setting or program if, in the judgment of the Department, such setting or program:

- (1) Provides a beneficial Service to Participants;
- (2) Observes appropriate standards to safeguard the health and safety of Participants, staff, and public;
- (3) Documents that buildings involved have been approved for such use by the Office of State Fire Marshall;
- (4) Does not exploit the Participants, their families, or the public.

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

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

Document No. 5222  
**STATE BOARD OF EDUCATION**  
 CHAPTER 43

Statutory Authority: 1976 Code Sections 59-21-510, 59-33-10, and 59-33-10

43-243.1. Criteria for Entry into Programs of Special Education for Students with Disabilities.

**Synopsis:**

The State Board of Education proposes to amend R.43-243.1 Criteria for Entry into Programs of Special Education for Students with Disabilities. These revisions reflect developments in the field, guidance from OSEP, provide clarity and to support uniform implementation of the eligibility criteria for the thirteen categories identified in IDEA.

The Notice of Drafting was published in the *State Register* on June 23, 2023.

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### Instructions:

Print the regulation as shown below. All other items remain unchanged.

### Text:

43-243.1. The Criteria for Entry into Programs of Special Education for Students with Disabilities.

#### A. General Requirements

These criteria for entry into programs of special education for students with disabilities will be used by all members of the multidisciplinary team, who may include school psychologists, speech-language therapists, and other persons responsible for the identification and evaluation of students with disabilities.

The federal definitions for all categories of disabilities have been used, as included in the Individuals with Disabilities Act (IDEA). All examiners, however, must be appropriately credentialed or licensed and should have completed training that is directly relevant to the assessment procedure being conducted. Examiners may administer supplementary measures such as curriculum-based assessments to gain additional information.

All evaluation procedures must ensure that the following minimal requirements are met:

1. Tests and other evaluation materials used to assess a student suspected of having a disability are selected and administered so as not to be discriminatory on a racial or cultural basis and are provided and administered in the student's native language or other mode of communication unless it is clearly unfeasible to use that language or any mode of communication.

2. Materials and procedures used to assess a student with limited English proficiency are selected and administered to ensure that they measure the extent to which the student has a disability and needs special education, rather than measuring the student's English language skills.

3. A variety of assessment tools and strategies are used to gather relevant functional and developmental information about the student, including information provided by the parent and information related to enabling the student to be involved in and progress in the general curriculum (or for a preschool child to participate in appropriate activities) that may assist in determining whether the student is one with a disability and what the content of the student's IEP should be.

4. Any standardized tests that are given to a student have been validated for the specific purpose for which they are used and are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests. If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions, such as the qualifications of the person administering the test or the method of test administration, must be included in the evaluation report.

5. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

6. Tests are selected and administered so as best to ensure that if a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level, or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

7. No single procedure is used as the sole criterion for determining whether a student has a disability and for determining an appropriate educational program for the student.

8. The student is assessed in all areas related to the suspected disability, including, if appropriate, his or her health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

9. In the assessment of each student with a disability, the methods of evaluation are sufficiently comprehensive to identify all of the student's special education and related-service needs, whether or not they are commonly linked to the category in which the student is suspected of having a disability.

10. Each school district/agency uses technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors.

11. Each school district/agency uses assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student.

## B. Autism Spectrum Disorder

### 1. Definition

Autism is a developmental disability characterized by significant deficits in social communication and interaction as well as significant restricted interests and repetitive behaviors that are not primarily caused by an emotional disability and are typically, though not always, evident before age three.

### 2. Eligibility Criteria

There is evidence that the child meets educational criteria for autism spectrum disorder (ASD) indicated by:

a. persistent deficits in social communication and social interaction across multiple contexts, as manifested by all of the following (currently or by history):

(1) deficits in social-emotional reciprocity, ranging , for example from abnormal social approach and failure of normal back and forth conversation; to reduced sharing of interests, emotions, or affect; to failure to initiate or respond to social interactions;

(2) deficits in nonverbal communicative behaviors used for social interaction, ranging, for example, from poorly integrated verbal and nonverbal communication; to abnormalities in eye contact and body language or deficits in understanding and use of gestures; to a total lack of facial expressions and nonverbal communication; and

(3) deficits in developing, maintaining, and understanding relationships, ranging for example, from difficulties adjusting behavior to suit various social contexts; to difficulties in sharing imaginative play or in making friends; to absence of interest in peers;

b. restricted, repetitive patterns of behavior, interests, or activities, as manifested by at least two of the following (currently or by history):

(1) stereotyped or repetitive motor movements, use of objects, or speech (e.g., simple motor stereotypes, lining up toys or flipping plates, echolalia, idiosyncratic phrases);

(2) highly restricted, fixated interests that are abnormal in intensity or focus (e.g., strong attachment to or preoccupation with unusual objects, excessively circumscribed or pervasive interests);



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(3) insistence on sameness, inflexible adherence to routines, or ritualized patterns of verbal or nonverbal behavior (e.g., extreme distress at small changes, difficulties with transition, rigid thinking patterns, greeting rituals, needing to take the same routine or eat the same food every day);

(4) hyper or hypo-activity to sensory input or unusual interest in sensory aspects of the environment (e.g., apparent indifference to pain/temperature, adverse response to specific sounds or textures, excessive smelling or touching of objects, visual fascination with lights or movement);

c. these characteristics cannot be accounted for by an emotional disability. In cases where autism spectrum disorder and emotional disability may be comorbid, the above characteristics are in excess of what can be explained by an emotional disability alone;

d. these characteristics adversely impact educational performance as indicated by one or more of the following:

(1) difficulties maintaining appropriate social behaviors across multiple environments;

(2) difficulties initiating or maintaining positive interactions with peers and/or adults;

(3) difficulties communicating ideas, wants, or needs verbally and/or in writing;

(4) decreased ability to participate in age-appropriate activities;

(5) difficulties with social functioning skills such as planning, organizing, self-monitoring, and/or self-regulation; and/or

(6) for school age students: significantly sub-average academic achievement or notable difficulties with abstract learning tasks;

e. the adverse impact on the child's educational performance requires the provision of specialized instruction and, if necessary, related services in one or more of the following areas:

(1) academic performance;

(2) social skills;

(3) emotional regulation/coping skills;

(4) classroom behavior;

(5) adaptive skills (e.g., daily living, functional communication, work ethic, study skills, etc.); or

(6) vocational skills.

### C. Deaf-blindness

#### 1. Definition

Deaf-blindness means concomitant hearing loss and visual impairment, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children who are deaf or hard of hearing or children who are blind or visually impaired.

## 2. Eligibility Criteria

a. There is evidence that the child meets the criteria for both the Deaf/Hard of Hearing category and the Visual Impairment category.

b. There is an adverse effect of the disability on the child's educational performance.

c. The impact of this disability requires specialized instruction and, if necessary, related services. For a child who is not yet in kindergarten, the adverse effects of the disability on the child's ability to participate in age-appropriate activities requires specialized instruction and, if necessary, related services.

## D. Deaf/Hard of Hearing

### 1. Definition

Deaf/Hard of Hearing means a diminished sensitivity to sound or hearing loss, permanent or fluctuating, with or without amplification, that impacts the processing of linguistic information through hearing and adversely affects the child's educational performance, speech perception and production, social skills, and/or language and communication.

### 2. Eligibility Criteria

a. There is evidence that the child has a documented hearing loss of 20dB or greater at any frequency including a permanent conductive, sensorineural, or mixed hearing loss, either unilaterally or bilaterally; or

b. there is a fluctuating hearing loss, either unilaterally or bilaterally; or

c. there is documentation of Auditory Neuropathy Spectrum Disorder (ANSO), unilaterally or bilaterally; and

d. there is an adverse effect of the disability on the child's educational performance; and

e. the impact of the disability requires specialized instruction and, if necessary, related services. For a child who is not yet in kindergarten, the adverse effects of the disability on the child's ability to participate in age-appropriate activities require specialized instruction and, if necessary, related services.

## E. Developmental Delay

### 1. Definition

A delay in one or more of the following areas: physical development; cognitive development; communication; social or emotional development; or adaptive behavioral development that adversely affects a child's educational performance. The term does not apply to children who are experiencing a slight or temporary lag in one or more areas of development, or a delay which is primarily due to environmental, cultural, or economic disadvantage or lack of experience in age-appropriate activities. The developmental delay classification may be used for children three through eight.

### 2. Eligibility Criteria

a. There is evidence that the child's performance is significantly below average in one or more developmental areas. A general guideline is 2.0 or more standard deviations below the mean in one area or at least 1.5 standard deviations below the mean in two or more areas (+/- standard error of measurement) and/or a 40% delay in one area or 25% or greater delay in 2 or more areas:

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- (1) physical development;
- (2) cognitive development;
- (3) communication development;
- (4) social or emotional development;
- (5) adaptive behavior development.

b. There is evidence that the delay is not due to:

- (1) environmental, cultural, economic disadvantage, or lack of experience in appropriate activities;
- (2) limited English proficiency; or
- (3) being Deaf/Hard of Hearing, and/or Visually Impaired.

c. There is an adverse effect of the disability on the child's educational performance; and

d. The impact of the disability requires specialized instruction and, if necessary, related services. For a child who is not yet in kindergarten, the adverse effects of the disability on the child's ability to participate in age-appropriate activities require specialized instruction, and if necessary, related services.

### F. Emotional Disability

#### 1. Definition

Emotional Disability means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects the child's educational performance:

- a. an inability to learn that cannot be explained by intellectual, sensory, or health factors;
- b. an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- c. inappropriate types of behavior or feelings in normal circumstances;
- d. a general pervasive mood of unhappiness or depression;
- e. a tendency to develop physical symptoms or fears associated with personal or school problems.

The term includes schizophrenia. The term does not apply to children who are socially maladjusted unless it is determined that they have a serious emotional disability.

#### 2. Eligibility Criteria

There must be evidence of all of the following:

a. the child exhibits characteristics of a social-emotional, behavioral, or mental health condition (examples include anxiety disorders, disruptive behavior disorders, schizophrenia, etc.) that:

(1) fall outside of expected age, ethnic, and cultural expectations with regard to frequency, duration, and/or severity; and

(2) have persisted for at least 6 weeks within the school setting despite the provision of appropriate intervention except in the most extreme cases when there is clear evidence of a suspected disability (e.g., student's functioning poses a danger to self or others, concerns have required hospitalization or emergency services, etc.). These interventions may include but are not limited to functional behavior assessment/behavior intervention plans, counseling, social-emotional or behavioral interventions delivered through a multi-tiered system of supports, or other therapeutic interventions received outside of the school environment (e.g., intensive outpatient services, hospitalization, etc.);

b. these characteristics adversely impact the child's educational performance, as evidenced by one or more of the following:

- (1) an inability to learn that cannot be explained by intellectual, sensory, or health factors;
- (2) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- (3) inappropriate types of behaviors or feelings under normal circumstances;
- (4) a general pervasive mood of unhappiness or depression; and/or
- (5) a tendency to develop physical symptoms or fears associated with personal or school problems;

c. there is an adverse effect of the disability on the child's educational performance;

d. the impact on the child's educational performance requires the provision of specialized instruction and, if necessary, related services in one or more of the following areas:

- (1) academic performance;
- (2) social skills;
- (3) emotional regulation/coping skills;
- (4) classroom behavior;
- (5) adaptive skills (e.g., daily living, functional communication, work ethic, study skills, etc.); or
- (6) vocational skills.

## G. Intellectual Disabilities

### 1. Definitions

Intellectual Disability means a condition characterized by significant deficits in adaptive behavior and cognitive functioning that manifest in the developmental period (i.e., childhood) and adversely affects a child's educational performance.

### 2. Eligibility Criteria

There must be evidence of all of the following:

a. A significant impairment in adaptive functioning that is at least two standard deviations below the mean (+/- the standard error of measurement) in at least two of the following adaptive skill domains:

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(1) Communication - The ability to convey information from one person to another through words and actions. This involves the ability to understand others and to express oneself through words or actions.

(2) Social skills - This refers to the ability to interact effectively with others. These skills include the ability to understand and comply with social rules, customs, and standards of public behavior. This requires the ability to process figurative language and detect unspoken cues such as body language.

(3) Personal independence at home and/or in community settings – This refers to the ability to take care of oneself. Some examples are bathing, dressing, and feeding. It also involves the ability to safely complete day-to-day tasks without guidance. Some examples are cooking, cleaning, and laundry. This also includes routine acts performed in the community such as shopping for groceries and accessing public transportation.

(4) School or work functioning - This refers to the ability to conform to the social standards at school or work. It includes the ability to learn new knowledge, skills, and abilities and apply this information in a practical, adaptive manner without excessive direction or guidance.

b. A significant limitation in intellectual functioning such as reasoning, problem solving, planning, abstract thinking, judgement, academic learning, and learning by experience as indicated by a Full-Scale Intelligence Quotient (FSIQ), General Abilities Index (GAI), or equivalent that are at least two standard deviations below the mean (+/- the standard error of measurement) on a current, individually administered, norm-referenced measure of intelligence.

c. There is an adverse effect of the disability on the child's educational performance.

d. The impact on the child's educational performance requires the provision of specialized instruction and, if necessary, related services in one or more of the following areas:

(1) pre-academic/cognitive readiness;

(2) academic performance;

(3) classroom behavior;

(4) adaptive skills (e.g., daily living, functional communication, social skills, etc.); or

(5) vocational skills.

### H. Multiple Disabilities

#### 1. Definition

Multiple Disabilities means concomitant impairments (such as intellectual disabilities-blindness or intellectual disabilities-orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities do not include deaf blindness.

#### 2. Eligibility Criteria

a. There is evidence that the child meets all eligibility requirements for two or more of the following disability categories:

(1) autism;

- (2) intellectual disability;
- (3) traumatic brain injury;
- (4) emotional disability;
- (5) specific learning disability;
- (6) orthopedic impairment;
- (7) other health impairment;
- (8) vision impairment (not to be combined with deaf/hard of hearing);
- (9) deaf/hard of hearing (not to be combined with vision impairment);
- (10) speech language impairment.

b. The adverse effects of the multiple disabilities on the child’s educational performance cannot be accommodated in special education programs solely for one of the disabilities and require specialized instruction and if necessary, related services. For a child who is not yet in kindergarten, the adverse effects of the disability on the child’s ability to participate in age-appropriate activities require specialized instruction and, if necessary, related services. The simple presence of eligibility under two disability categories does not qualify a child under the category of Multiple Disabilities. There must be evidence to document that the interaction of the disabilities creates the need for distinctly different programming and instruction than either of the two categories alone.

## I. Other Health Impairment

### 1. Definition

Other Health Impairment means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems and adversely affects a student’s educational performance.

This chronic or acute health problem may include, but is not limited to asthma, attention deficit hyperactivity disorder (inattentive/hyperactive/impulsive/combined type), diabetes, epilepsy, heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, Tourette syndrome, or anxiety and depression that does not rise to the level of an Emotional Disability. According to the Office of Special Education and Rehabilitative Services, Department of Education, “the list of acute or chronic health conditions in the definition of other health impaired is not exhaustive, but rather provides examples of problems that children have that could make them eligible for special education and related services under the category of other health impairment”.

### 2. Eligibility Criteria

- a. There is evidence that the child has a chronic or acute health problem (persistent or long lasting in its effects or worsens over time).
- b. The diagnosed chronic or acute health problem results in at least one of the following:
  - (1) limited strength –the inability to perform typical or routine tasks at school;
  - (2) limited vitality – the inability to sustain effort or endure throughout an activity;

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(3) limited alertness – The inability to manage and maintain attention, to organize or attend, to prioritize environmental stimuli, including a heightened alertness;

c. The chronic or acute health problem adversely affects a child’s educational performance in one or more of the following areas:

- (1) academic achievement;
- (2) behavior;
- (3) communication;
- (4) social/emotional functioning;
- (5) adaptive behavior;
- (6) classroom performance;
- (7) motor skills;
- (8) vocational skills;
- (9) executive functioning.

d. There is an adverse effect of the disability on the child’s educational performance.

e. The impact of the disability requires specialized instruction and, if necessary, related services. For a child who is not yet in kindergarten, the adverse effects of the disability on the child’s ability to participate in age-appropriate activities require specialized instruction and, if necessary, related services.

### J. Orthopedic Impairment

#### 1. Definition

Orthopedic impairment means a severe orthopedic impairment that adversely affects a child’s educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

#### 2. Eligibility Criteria

a. A comprehensive written report from a licensed medical provider (i.e., licensed physician, physician’s assistant, or licensed nurse practitioner) documenting a diagnosis of an orthopedic impairment:

- (1) caused by a congenital anomaly (e.g., clubfoot, absence of a member, etc.);
- (2) caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.); or
- (3) resulting from conditions such as cerebral palsy, amputations, fractures, or burns that cause contractions, etc.

b. There is an adverse effect of the disability on the child’s educational performance .

c. The impact of the disability requires specialized instruction and, if necessary, related services. For a child who is not yet in kindergarten, the adverse effects of the disability on the child's ability to participate in age-appropriate activities require specialized instruction and, if necessary, related services.

## K. Specific Learning Disabilities

### 1. Definition

Specific Learning disability means a disorder in one of more of the basic psychological processes involved in understanding or in using language, spoken, or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific Learning Disability does not include learning problems that are primarily the result of: visual impairment, including blindness; hearing impairment, including deafness; orthopedic impairment; intellectual disability; serious emotional disability; cultural factors; environmental or economic disadvantage; or limited English proficiency.

### 2. Eligibility Criteria

a. There is evidence of significantly subaverage academic skills: The child does not achieve adequately for the child's age or to meet State-approved grade level standards in one or more of the following areas:

- (1) basic reading skills;
- (2) reading fluency;
- (3) reading comprehension;
- (4) math calculation;
- (5) math problem-solving;
- (6) written expression;
- (7) oral expression;
- (8) listening comprehension.

b. Learning experiences: The child has been provided with learning experiences and instruction appropriate for the child's age or State-approved grade level standards in the area(s) of concern.

c. Exclusionary factors: The underachievement must not be the primary result of:

- (1) limited English proficiency;
- (2) visual, hearing or motor disability;
- (3) intellectual disabilities;
- (4) emotional disabilities;
- (5) cultural factors;
- (6) environmental or economic disadvantage;



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(7) atypical educational history such as irregular attendance or attendance at multiple schools;

(8) lack of appropriate evidence-based instruction in writing; spelling accuracy, grammar and punctuation accuracy, clarity, or organization of written expression;

(9) lack of appropriate evidence-based instruction in math; number sense, memorization of arithmetic facts, accurate or fluent calculation, accurate math reasoning; or

(10) lack of appropriate evidence-based instruction in reading; explicit and systematic instruction in the essential components of reading instruction, phonemic awareness, phonics, reading fluency, vocabulary and reading comprehension.

d. There is an adverse effect of the disability on the child's educational performance.

e. The impact of the disability requires specialized instruction and, if necessary, related services.

### L. Speech-Language Impairment

#### 1. Definition

Speech-Language Impairment means a communication disorder, such as stuttering, impaired articulation (speech sound), language impairment, or a voice impairment, that adversely affects a child's educational performance. A speech or language impairment includes demonstration of impairments in one or more of the following areas: speech sound, language, fluency, or voice as indicated in the following respective definitions.

Voice – Interruption in one or more processes of pitch, quality, intensity, resonance, or a disruption in vocal cord function that significantly reduces the child's ability to communicate effectively. The term voice impairment does not refer to:

a. differences that are the direct result of regional, dialectic, and/or cultural differences;

b. differences related to medical issues not directly related to the vocal mechanism (e.g., allergies, asthma, laryngitis, laryngopharyngeal reflux);

c. anxiety disorders (e.g., selective mutism); and

d. differences due to temporary factors such as short-term vocal abuse or puberty.

Speech sound - Atypical production of phonemes characterized by substitutions, omissions, additions, or distortions that impairs intelligibility in conversational speech and adversely affects academic achievement and/or functional performance in the educational setting. Intelligibility levels and/or speech patterns that are below the performance of typically developing peers and interfere with successful verbal communication. The atypical production of speech sounds may also result from phonology, motor, or other issues and/or disorders. The term phonological or articulation impairment does not include:

a. inconsistent or situational errors that do not have an impact on the child's ability to functionally communicate;

b. communication problems or speech sounds primarily from regional, dialectic, and/or cultural differences; and

c. speech sound errors at or above age level according to established research-based developmental norms, without documented evidence of adverse effects on educational or functional performance.

Language - Impaired comprehension and/or use of spoken language that adversely affects the child's ability to participate in the primary learning environment. The language impairment may involve an impairment in one or more of the following areas of language, in any combination to include the form of language (phonology, morphology, and syntax), the content of language (semantics) which affects the child's educational or functional performance. The term language impairment does not include:

- a. anxiety disorders (e.g., selective mutism);
- b. children who have regional, dialectic, and/or cultural differences (no dialectal variety of English is to be considered a disorder);
- c. children who are learning English as a second language who do not exhibit difficulties in both languages;
- d. children who have auditory processing disorders not accompanied by language impairment; and
- e. children who have an isolated pragmatic language or phonemic awareness concern without an impairment of comprehension and/or spoken language.

Fluency - Interruption in the flow of speech characterized by an atypical rate, or rhythm in sounds, syllables, words, and phrases that significantly reduces the child's ability to participate within the learning environment with or without his or her awareness of the disfluencies or stuttering. Excessive tension, avoidance behaviors, struggling behaviors and secondary characteristics (ritualistic behaviors or movements) may accompany fluency impairments.

## 2. Eligibility Criteria

### Voice

- a. There is evidence that the child meets all of the following:

(1) An interruption in one or more processes of pitch, quality, intensity, resonance, or a disruption in vocal cord function that significantly reduces the student's ability to communicate effectively within the learning environment in addition to scores of 59 to 81 on the Pediatric Voice Index (Parent/Caregiver and/or Teacher version);

(2) There is an adverse effect of the disability on the child's educational performance requiring specially designed instruction and, if necessary, related services. For a child who is not yet in kindergarten, the adverse effects of the disability on the child's ability to participate in age-appropriate activities require specially designed instruction, and if necessary, related services.

(3) The child has received medical clearance from a doctor prior to determination of the need for specially designed instruction to ensure the source of the voice impairment is not an organic problem for which therapy is contraindicated (e.g., paralyzed vocal cords).

Physician's orders for speech therapy may not be used as the sole criterion for determining eligibility. There must be evidence that the vocal impairment adversely affects the student's educational performance.

### Speech sound

- There is evidence that the child meets all of the following:

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a. there is documentation of a delayed speech or speech sound production (at least two out of three must be met):

(1) three or more consonant speech sound errors when 90 percent of typically developing peers produce sound correctly according to current norms; and/or presence of one or more disordered (developmental and non-developmental) phonological processes occurring at least 40 percent of the time;

(2) stimulability less than 59 percent;

(3) percent of consonants correct less than 84 percent;

b. the speech sound impairment must have an adverse effect impacting the child's ability to perform and/or function in the child's typical learning environment, thereby demonstrating the need for specialized instruction and, if necessary, related services.

### Language

a. There is documentation of impaired language development (at least three of the following must be met):

(1) composite standard score of two deviations or more below the mean on a global assessment of language with consideration for the cut score for that specific assessment, sensitivity and specificity at that cut score, and confidence intervals;

(2) two or more phonological awareness skills that do not meet age/grade appropriate norms;

(3) narrative abilities that are greater than one year or more below the chronological age;

(4) language sample(s) with three or more skills in the areas of morphology, syntax, relational semantics, and/or pragmatics that do not meet age-appropriate norms;

(5) dynamic assessment results that reveal a student is unable to complete any or only up to three steps of dynamic assessment for targeted skill(s), there is no, or limited improvement noted, and/or requires moderate to substantial support;

b. There is an adverse effect of the disability on the child's educational performance.

c. The impact of the disability requires specially designed instruction and, if necessary, related services. For a child who is not yet in kindergarten, the adverse effects of the disability on the child's ability to participate in age-appropriate activities require specially designed instruction, and if necessary, related services.

### Fluency

a. There is documentation of dysfluent speech (at least two of the following must be met):

(1) frequency of dysfluency that is six to ten percent vocal dysfluencies per speaking minute, ten to fifteen percent of syllables stuttered or six to ten dysfluencies per minute;

(2) the dysfluency is described as frequent to habitual repetitions, prolongations, blocks, hesitations, interjections vocal tension, pauses of two seconds or greater, or five or more reiterations in a repetition;

(3) presence of associated non-vocal behaviors that include at least one associated behavior that is noticeable and distracting;

(4) avoidance of some speaking situations;

b. There is evidence of an adverse effect of the disability on the child's educational performance.

c. The impact of the disability requires specialized instruction and, if necessary, related services. For a child who is not yet in kindergarten, the adverse effects of the disability on the child's ability to participate in age-appropriate activities require specialized instruction, and if necessary, related services (at least two of the following must be met).

(1) evidence of educational struggles in most or all areas when compared to peers;

(2) two observations revealing ability to verbally communicate is dissimilar to peers across half or more contexts, settings, environments, and/or circumstances;

(3) score of 45-100 on the Overall Assessment of the Speaker's Experience of Stuttering (OASES).

## M. Traumatic Brain Injury

### 1. Definition

Traumatic Brain Injury (TBI) means an acquired injury to the brain resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. The term applies to open or closed head injuries, deceleration injuries, chemical/toxic, hypoxia, tumors, infections, and stroke resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

### 2. Eligibility Criteria

a. The child must have an acquired injury to the brain that occurred following a period of normal development. The acquired injury may not be due to congenital causes such as Down Syndrome, Phenylketonuria, or degenerative causes such as Multiple Sclerosis or Muscular Dystrophy or induced by birth trauma such as a perinatal stroke.

b. The child's brain injury was caused by an acquired brain injury in one of the following ways:

(1) Open head injury (also called penetrating) – This results when the scalp/skull is broken, fractured, or penetrated. This may occur when a foreign object (e.g., a bullet) goes through the skull, enters the brain, and damages specific parts of the brain. This focal, or localized, brain damage occurs along the route the object has traveled. Symptoms following an open TBI vary depending on the part(s) of the brain that is (are) damaged.

(2) Closed head injury - This results when an outside force impacts the head, but the skull is not broken, fractured, or penetrated. This may occur, for example, when the head strikes the windshield or dashboard in a car accident. Damage is typically widespread or diffuse. Symptoms following a closed TBI vary depending on the extent of the damage to the brain.

(3) Deceleration injuries (also known as diffuse axonal injury) - This typically happens when a rapidly moving skull is abruptly stopped (e.g., an auto accident, shaken baby syndrome), while the brain continues forward and impacts directly below the site where the skull stops.

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(4) Chemical/Toxic (also known as metabolic disorders) – This happens when harmful chemicals damage the neurons. Chemicals and toxins can include insecticides, solvents, carbon monoxide poisoning, lead poisoning, etc.

(5) Hypoxia (also called lack of oxygen) – This happens if the blood flow is depleted of oxygen, which can cause irreversible brain injury from anoxia (no oxygen) or hypoxia (reduced oxygen). It may take only a few minutes for this to occur. This condition may be caused by heart attacks, respiratory failure, drops in blood pressure and a low oxygen environment. It may also be caused by a near drowning incident or strangling.

(6) Tumors - Tumors caused by cancer as well as benign tumors can grow on or over the brain. Tumors can cause brain injury by invading the spaces of the brain and causing direct damage. Damage can also result from pressure effects around an enlarged tumor. Surgical procedures to remove the tumor may also contribute to brain injury.

(7) Infections – The brain and surrounding membranes are very prone to infections if the special blood-brain protective system is breached. Viruses and bacteria can cause serious and life-threatening diseases of the brain such as encephalitis, meningitis, staph infections and post-covid syndrome.

(8) Stroke – If blood flow is blocked through a cerebral vascular accident (stroke), cell death in the area deprived of blood will result. If there is bleeding in or over the brain (hemorrhage or hematoma) because of a tear in an artery or vein, loss of blood flow and injury to the brain tissue by the blood will also result in brain damage.

c. The child’s educational performance is adversely affected due to total or partial functional disability or psychosocial impairment, or both, in one or more of the following areas: (When examining the child’s educational performance, consider both academic and nonacademic skills and progress.)

(1) cognition;

(2) memory;

(3) reasoning;

(4) communication;

(5) problem solving;

(6) speech and language;

(7) attention;

(8) abstract thinking;

(9) judgement/decision making;

(10) sensory, perceptual, and motor skills;

(11) information processing;

(12) physical functions (muscle movement, sleep, fatigue, weakness, balance, seizures, etc.);

(13) psychological or social functioning (emotional control and mood swings, appropriateness of behaviors, depression, anxiety, frustration, irritability, agitation, etc.);

(14) executive functions (organizing, planning, evaluating, and goal directed activities).

d. There is an adverse effect of the disability on the child's educational performance.

e. The impact of the disability requires specialized instruction and, if necessary, related services. For a child who is not yet in kindergarten, the adverse effects of the disability on the child's ability to participate in age-appropriate activities require specialized instruction and, if necessary, related services.

## N. Visual Impairment

### 1. Definition

Visual impairment, including blindness, means impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness.

### 2. Eligibility Criteria

Visual Impairment includes at least one of the following:

a. visual acuity in the better or both eyes with the best possible correction;

(1) legal blindness – 20/200 or less at distance and/or near;

(2) low vision – visual acuity between 20/70 and the definition of legal blindness at distance and/or near; or

(3) medical and educational documentation of progressive loss of vision, which may in the future affect the child's ability to learn visually;

b. visual field restriction with both eyes; or

(1) legal blindness – remaining visual field of 20 degrees or less;

(2) low vision – remaining visual field of 40 degrees or less; or

(3) medical and educational documentation of progressive loss of vision, which may in the future affect the child's ability to learn visually;

c. other visual impairment, not visual processing in nature, resulting from a medically documented condition; or

d. cortical visual or cerebral visual impairment; and

e. there is an adverse effect of the disability on the child's educational and functional performance.

f. The impact of the disability requires specialized instruction and, if necessary, related services. For a child who is not yet in kindergarten, the adverse effects of the disability on the child's ability to participate in age-appropriate activities require specialized instruction and, if necessary, related services.

## O. Reevaluation

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Reevaluations for all categories of disability must be conducted at least once every three years and must be conducted more frequently if conditions warrant, if the parents or school personnel request such reevaluations, or if the student's dismissal from special education is being considered.

1. This reevaluation must be planned and conducted by an IEP team and other qualified professionals as appropriate.

2. The IEP team must review existing evaluation data on the student, including evaluations and information provided by his or her parents, current classroom-based assessments, and observations of teachers and related service providers.

3. On the basis of that review and input from the student's parents, the IEP team must identify what additional data, if any, are needed to determine the following:

- a. whether the student continues to have a disability;
- b. what the present levels of performance and the educational needs of the student are;
- c. whether the student continues to need special education and related services; and

d. whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set forth in his or her IEP and to participate, as appropriate, in the general curriculum.

4. Appropriate, qualified professionals must administer such tests and/or collect other evaluation information to produce the data identified by the IEP team.

5. If the IEP team and other qualified professionals, as appropriate, determine that no additional data are needed, the team must document the justification for this determination.

### **Fiscal Impact Statement:**

No additional funding is requested. The South Carolina Department of Education (SCDE) estimates that no additional costs will be incurred by the State and its political subdivisions in complying with the proposed revisions to regulation 43-243.1.

### **Statement of Rationale:**

R.43-243.1 is required to reflect developments in the field of special education, guidance from OSEP, provide clarity, and support uniform implementation of the eligibility criteria for the thirteen categories identified in IDEA.

Document No. 5176  
STATE BOARD OF EDUCATION  
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-1-320, and 4 U.S.C. Section 1, et seq.

43-188. Displaying the Flag.

**Synopsis:**

The State Board of Education proposes to amend R.43-188: Displaying the flag, to include schools shall display the official motto of the United States, “In God We Trust”, and the official motto of South Carolina, “Dum spiro spero” and “Animis opibusque parati”, and their respective translations.

The Notice of Drafting was published in the *State Register* on December 23, 2022.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

43-188. Displaying the Flag.

I. Display of the United States Flag

Schools shall display the United States flag each school day and shall fly the flag in accordance with the laws regulating the display of the United States flag as set forth in 4 U.S.C. Section 6-10 and consistent with the guidance related to the State Capitol Building as set forth in S.C. Code Ann. Section 10-1-161.

II. South Carolina Flag

The South Carolina flag shall be flown consistent with 4 U.S.C. Section 6-10 and the guidance related to the State Capitol Building as set forth in S.C. Code Ann. Section 10-1-161 as it applies to the flying of state flags with the United States flag.

III. Official Mottos

Schools shall display the official motto of the United States, “In God We Trust”; and the official motto of South Carolina, “Dum spiro spero” and “Animis opibusque parati”, and their respective translations.

**Fiscal Impact Statement:**

SCDE indicates that the bill will have no expenditure impact on the agency. The requirement to make regulations for the display of the mottos and flag representations can be accomplished within existing appropriations. Additionally, enforcement of the Patriot Day, Constitution Day, and Patriotism Week activities can be accomplished within the normal course of agency business.

**Statement of Rationale:**

To meet the requirements of Senate Bill 969 (State Board of Education) as established by the General Assembly.



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Document No. 5223  
**STATE BOARD OF EDUCATION**  
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-5-100, 59-5-120, and 59-67-520

43-80. Operation of Public Student Transportation Services.

### **Synopsis:**

The State Board of Education proposes to amend R.43-80 Operation of Public Student Transportation Services to address aides on school buses.

The Notice of Drafting was published in the *State Register* on April 28, 2023.

### **Instructions:**

Print the regulation as shown below. All other items remain unchanged.

### **Text:**

43-80. Operation of Public Student Transportation Services.

I. The school district board of trustees (Board of Trustees) shall be responsible to the State Board of Education (SBE) for the supervision of the school transportation program in the district. This shall include the recruitment of school bus drivers, employment and dismissal of school bus drivers, supervision of school bus drivers and the students being transported, proposed routing of buses, accurate transportation records as to mileage, number of students transported pursuant to Section 59-67-100, driver's time reports, school bus safety, and enforcing all other transportation regulations. The recruitment and employment of school bus drivers and supervisory personnel is the responsibility of the Board of Trustees. The transportation of students is an integral and essential part of the school program, and teachers and administrative personnel shall be assigned to school bus duties in the interest of the transportation program.

II. Transportation on regular school bus routes is authorized for public school students. Public school students include three-year to five-year old students who are disabled, kindergarten students in half-day programs, and the K-12 regularly enrolled students during the 180-day school year. Three- and four-year old students attending public school-sponsored kindergarten or child development programs must be permitted to ride state-owned buses to the extent funds are made available by the General Assembly. Special programs operated and/or sponsored by the governing body of the school district may use school buses as long as transportation services are paid for by the school district at no cost to the State and do not disrupt school bus maintenance servicing or regular school bus routes. A special program is any education or other program sponsored by the school district that is not a program required by State statute or regulation to be operated by the school district. A student with a disability shall be transported on a bus staffed with an aide if the student's Individualized Education Program or accommodations plan under Section 504 of the Rehabilitation Act of 1973 (504 Plan) specifies.

A student in a Child Safety Restraint System, excluding standard seatbelts, must be transported on a bus with an aide. If an aide is not available for a bus transporting a student in a Child Safety Restraint System, the bus shall not run unless it would put the school district in violation of Federal and State statutes or regulations.

A student in a wheelchair shall be transported on a bus staffed with an aide or other qualified employee who shall operate the wheelchair lift.

Unless a Student's Individualized Education Program or 504 Plan specifies a 1:1 aide, an aide for a student with an Individualized Education Program or 504 Plan may count as an aide for the bus.

Assignment of buses for new routes will be made on the basis of actual need. Justification must be submitted showing that all buses presently assigned to the district or area are being used to the maximum before additional equipment can be assigned.

To enhance school bus routing effectiveness, kindergarten students shall be assigned to morning or afternoon sessions on the basis of where they live.

III. The State shall not be required to operate buses for high school, junior high school, middle school, and elementary school students separately. Approval of separate transportation will be given only when such transportation can be accomplished with the same number of buses and approximately the same mileage. The schedule of work and the opening and closing hours for all schools served by the same buses must be arranged so as to facilitate a maximum amount of school work and at the same time permit the operation of a satisfactory and economical transportation program. School districts shall stagger school opening times when feasible to maximize the use of the school bus transportation system.

IV. Five-year-old through grade 12 public school students who have temporary physical handicaps or have a chronic disorder of lengthy duration may have their parents or guardians apply for these students to receive special school bus transportation services. The application process is as follows:

A. Secure appropriate forms for the District Superintendent.

B. Have the student examined by a licensed medical doctor and receive a written statement from the licensed medical doctor to the effect that without special school bus transportation service, unusual hardship will be experienced by the student in walking the required distance to the regular route.

C. Submit the statement from the licensed medical doctor to the District Superintendent for approval.

D. The District Superintendent shall submit the health statement with a Request For Special School Bus Transportation Service approval to the local representative of the South Carolina Department of Education (Department). Approval by the Department shall be required before a change in a school bus route for this purpose becomes official.

E. Approval for such a change in school bus routes shall terminate at the time the student no longer qualifies for special school bus transportation service, or when the student for whom the service was intended has moved residences.

V. Each school district shall prepare route descriptions and maps in accordance with laws and regulations and, upon approval of the Board of Trustees, shall submit the route descriptions and maps to the designated representative of the Department by October 15th of each year. Proposed changes in routes after October 15th must be approved by the designated representative of the Department before a change is made. In emergencies or unusual situations, districts may make route changes in keeping with laws and regulations with approval by telephone or e-mail from the designated representative of the Department. Such approval must then be submitted in writing, with written approval received from the designated representative of the Department. Changes made without notification to and approval by the designated representative of the Department will result in the district being charged the prevailing rate per mile for permit trips. The amount for unauthorized mileage will be deducted from the district's transportation funding.

Written approval or disapproval of all routes will be provided by the Department no later than November 15th. A period of two weeks will be given to the district for corrections to be made after a notice of disapproval. After this two week period, if corrections have not been made, any routes not approved by the Department will be operated at the expense of the district.

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VI. School bus stops on each route shall be established at safe locations no closer than two-tenths of a mile apart. Stops shall have a clear visibility of 600 feet in each direction or a “School Bus Stop Ahead” sign shall be located at a point 600 feet in each direction of the designated stop. During periods of inclement weather, buses may be allowed to stop on the established route at safe points nearest the house of each student; however, buses shall not be permitted to leave regular routes. Stops and turn-about shall not be made on blind curves, steep grades, or near the crest of hills or in any other unsafe traffic environment.

VII. Students shall not be transported from one district or attendance area to another when an appropriate school is provided within the district or attendance area. When an intra-district Choice Program is approved by an appropriate Board of Trustees, students may be transported across attendance boundaries; however, this transportation shall be provided in the most productive and cost efficient manner and shall not violate the continuous riding time restrictions provided in statute.

VIII. No school bus shall stop for the purpose of picking up or discharging any non-handicapped school student living within one and one-half miles of the school, unless under the application provisions of Section 59-67-420 the student qualifies for transportation under one of the following conditions.

A. Where no additional state-owned/leased school buses are required, districts may choose to transport students, who reside along the established route, to and from school on the established route within one and one-half miles distance of the school if there are vacant seats on the school bus. When transporting students who reside within the one and one-half mile distance of the school, other provisions of law and regulations must be maintained, and the school district must assume any additional operational expense.

B. When the Board of Trustees of any school district desires to transport students residing within one and one-half miles distance of the school, state-owned/leased buses may be used for this purpose provided the Board of Trustees pay to the Department an amount per mile to be determined annually by the Department. The per-mile amount should cover at a minimum all costs associated with the provision of the equipment used to provide the service. The methodology to determine this minimum cost shall be approved by the SBE. The driver salary and benefits shall be paid directly by the school district. No additional state-owned/leased buses will be assigned for transportation of students living within one and one-half miles of the school.

IX. Regularly assigned buses may be used to transport students to vocational classes upon approval of the Department, provided regular buses are the most cost effective method of transportation. If a regular assigned bus is not the most cost effective method, the District shall examine less costly transportation options. The Department shall reimburse the district for the least expensive alternative transportation mode. When buses are used, the class schedules shall be arranged so that buses can complete their regular morning and afternoon routes. As with all school bus transportation services, the Board of Trustees shall be responsible for providing adequate supervision on the bus at all times.

X. Buses shall be removed from routes when, in the opinion of the Department, abuse or vandalism becomes so excessive that it interferes with the maintenance and operation of buses for the regular school program.

XI. The Board of Trustees must correct problems in the routing, supervision and/or use of any school bus under its jurisdiction. If problems are not corrected after official notification by the designated representative of the Department, the school district shall assume all financial responsibility and all liability associated with operating the buses.

XII. Buses shall be left at the designated school bus parking area during the school day. Exceptions:

A. With prior written approval by the Department, drivers of buses may be transported by school bus pool to their home mid-day provided it can be justified economically. The Department, for economic justification purposes, will allow a pool bus to travel a distance of no more than five miles per driver transported one way

per day. Pooling shall be defined as the transportation of more than one bus driver to home or to work on a single bus. In no case shall there be an adverse economic impact upon the bus maintenance services.

B. Drivers of buses may drive their assigned bus home mid-day when the one-way mileage does not exceed five miles. Any additional mileage shall be at the district's expense.

C. Buses may be parked at another school when there will be no adverse economic impact upon bus maintenance services.

D. At the end of the school day, drivers may drive their vehicle back to their home or a designated public parking facility only when it can be proven that to do so can be justified economically.

The exceptions for use of buses and the related economic justifications shall be part of the route and schedule plan submitted by the local school district to the Department.

In exceptions A. and C. above, the request for approval shall include a plan to insure the proper servicing and maintenance of the bus.

The school district shall provide for safe loading and unloading of students and a suitable concrete or asphalt-paved area for the parking and servicing of buses during the school hours. The parking and service area shall be located and designed to insure that vehicular traffic, students, or unauthorized personnel are not in or around parked buses during the school day and shall be in compliance with all safety and fire regulations.

XIII. Each school district is required to keep each school bus in a clean and sanitary condition. Each district is responsible for all excessive driver and passenger abuse to the buses. Any school district using a bus on a trip not authorized by the Department shall assume all financial responsibility and liability.

The Board of Trustees shall designate, to the Department, a school official to see that proper care is taken of the buses; to see that the buses shall not be abused; to see that drivers make required reports promptly; to assist in the investigation and collection of the cost for damages to state-owned/leased equipment; and to aid in any proceedings, either civil or criminal.

XIV. The school bus driver certification program is established by the SBE and administered by the Department to qualify individuals to drive one or more of the numerous types of school buses. A school bus is a vehicle as defined and described in Sections 56-5-190, 56-5-195, 56-5-2770, 59-67-10, 59-67-30, and 59-67-108 of the South Carolina Code. The school bus definition designates a Full-functional School Bus (FFSB) vehicle as a school bus vehicle that is equipped with all signage and lamps to meet the requirements of Section 56-5-2770 and meets the National School Bus chrome yellow color requirements in Section 59-67-30, thus allowing it to control traffic when loading and unloading students. The school bus definition also designates the Multi-functional School Activity Bus (MFSAB) vehicle as a school bus vehicle that cannot control traffic because it lacks either signage or lamp requirements of Section 56-5-2770 or does not meet the National School Bus chrome yellow color requirements in Section 59-67-30. The vehicle's manufacturer passenger capacity rating has no effect on the vehicle's status as a school bus.

An individual driving a school bus, as defined in Section 59-67-10, must have a valid Department school bus driver's certificate in his or her possession when transporting or intending to transport preprimary, primary, or secondary public school students to or from school and school related activities. This includes transporting public school students to and from childcare or related activities.

Based on Section 59-67-40 and 59-67-108 of the South Carolina Code, an individual operating a FFSB equipped with enabled traffic control devices meeting the signage and lamp requirements of Section 56-5-2770 and meeting the color requirements of 59-67-30 for a private school must receive training in the use of these traffic control devices. Section 59-67-108 requires the Department to establish an appropriate level of

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certification for these individuals. An individual operating a bus, which does not meet the signage and lamp requirements of Section 56-5-2770 or meet the color requirements of 59-67-30 for a private school would not be required to receive training or the Department certification.

The SBE directs the Department to establish a school bus driver certification program that provides for the following three (3) separate and distinct school bus driver's certificate categories.

**Certificate A**—Authorizes an individual to operate school buses owned or leased by the State, a local school agency, a private contractor, a private school, or a childcare facility for the purpose of transporting school students.

**Certificate B**—Authorizes an individual to only operate an MFSAB owned or leased by a local school agency, a private contractor, a private school, or a childcare facility for the purpose of transporting school students.

**Certificate C**—Authorizes an individual to only operate a school bus owned or leased by a private school or a childcare facility when the school bus is an FFBSB. Additionally, the individual is authorized to operate an MFSAB owned or leased by a local school agency, a private contractor, a private school, or a childcare facility for the purpose of transporting school students.

Each certificate category is divided into two sub classifications: authorization to operate commercial vehicles and authorization to operate non-commercial vehicles. The non-commercial classification is established to certify individuals to only operate a school bus that is not classified as a Commercial Motor Vehicle by the South Carolina Department of Motor Vehicles (SCDMV).

In order to obtain any one of the Department School Bus Driver's Certificates, either an A, B, or C, an individual seeking certification or renewal must successfully complete all requirements established by this regulation and the related tests of the Department and SCDMV. Certificates are only issued by the Department.

The Department School Bus Driver Certification Program includes requirements that are common to all three (3) certificate categories plus requirements that are unique to a driver certificate category.

The common requirements which all drivers must satisfy for issuance and renewal of a Department School Bus Driver's Certificate are as follows.

A. A driver candidate must:

1. not have more than four (4) current points against his or her driving record with the SCDMV;
2. not have more than four (4) points against his or her driving record with the SCDMV within the previous twelve (12) months;
3. not have had his or her driver's license suspended for a moving violation within the past twelve (12) months.

B. Driver candidates shall successfully complete the Department's School Bus Driver Classroom Training Program.

C. Driver candidates and school bus drivers shall have a physical examination which meets the requirements of Section 59-67-160 of the Code of Laws of South Carolina.

D. Driver candidates shall successfully pass the Department's School Bus Driver Physical Performance Tests.

E. For initial certificate issuance, driver candidates shall successfully meet the minimum number of training hours as set forth by the Federal Motor Carrier Safety Administration (FMCSA) or the Department, depending on the license and certificate type the candidate holds or seeks.

F. Driver candidates shall pass the Department’s Behind-the-Wheel Road Skills Examination.

G. Drivers and driver candidates must be covered by a substance abuse testing program which complies with the USDOT Regulation, Title 49, Chapter III, Section 382, et al., and Federal Highway Administration for testing drivers of commercial vehicles.

H. The driver candidate must satisfy common requirement items C. through G. within one hundred and eighty (180) calendar days after successfully completing item B.

In addition to common requirements, A. through H., certificate categories have unique requirements which a driver must satisfy before issuance and/or renewal of the Department’s School Bus Driver’s Certificate.

1. Certificate-A Commercial—requires the following:

a. The driver candidate must possess a valid CDL with the appropriate endorsements required by State and Federal law necessary to operate a school bus type commercial motor vehicle to qualify for issuance.

b. The driver must complete a minimum of ten (10) hours of Department-approved in-service training annually to qualify for renewal.

2. Certificate-A Non-Commercial—requires the following:

a. A driver candidate must possess a valid driver’s license which meets the requirements in State and Federal law to operate a non-commercial school bus type vehicle with no restrictions other than vision correction to qualify for issuance.

b. A driver must complete a minimum of ten (10) hours of Department-approved in-service training annually to qualify for renewal.

3. Certificate-B Commercial—requires the following:

a. A driver candidate must possess a valid CDL with the appropriate endorsements required by State and Federal law to operate a school bus type commercial motor vehicle to qualify for issuance.

b. A driver must complete a minimum of two (2) hours of Department-approved in-service training annually to qualify for renewal.

4. Certificate-B Non-Commercial—requires the following:

a. A driver candidate must possess a valid driver’s license which meets the requirements in State and Federal law to operate a non-commercial school bus type vehicle with no restrictions other than vision correction to qualify for issuance.

b. A driver must complete a minimum of two (2) hours of Department-approved in-service training annually to qualify for renewal.

5. Certificate-C Commercial—requires the following:

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a. A driver candidate must possess a valid CDL with the appropriate endorsements required by State and Federal law to operate a school bus type commercial motor vehicle to qualify for issuance.

b. A driver must complete a minimum of ten (10) hours of Department-approved in-service training annually to qualify for renewal.

### 6. Certificate-C Non-Commercial—requires the following:

a. A driver candidate must possess a valid driver's license which meets the requirements in State and Federal law to operate a non-commercial school bus type vehicle with no restrictions other than vision correction to qualify for issuance.

b. A driver must complete a minimum of ten (10) hours of Department-approved in-service training annually to qualify for renewal.

I. 1. Any drivers receiving a license suspension for a moving violation or accumulating more than four (4) points against his or her driving record with the Department of Motor Vehicles after being issued a Department School Bus Driver's Certificate shall have the certificate suspended. If a certificated driver receives a ticket for Driving Under the Influence (DUI), the certificate shall be suspended, and if convicted of DUI, the driver's Department Certificate shall be revoked. The employer of the driver shall notify the Department within thirty (30) days of such excessive driver license points and DUI actions.

2. All driver candidates are subject to a South Carolina criminal background check which must be conducted by their employer before transporting students. The employer may require additional federal level security and criminal background checks.

XV. State-owned/leased school buses shall comply with the speed limits established in Section 59-67-515 or posted speed limits if less than 45 miles per hour.

XVI. All state-owned/leased buses shall be equipped with an operational stop-arm which meets the requirements of Federal Motor Vehicle Standard (FMSS) 131; School Bus Pedestrian Safety Devices.

XVII. The Board of Trustees shall have the authority to remove a bus from a regular school bus route when it is determined that the conduct of the passengers or others endangers the life and safety of the bus driver and passengers.

XVIII. The Board of Trustees may authorize the bus driver to assign seats to bus passengers when it is determined to be in the best interest of the transportation program.

XIX. Each school district shall submit to the Department in writing no later than May 1st of each year, any major changes in school assignments which would require a change in the number of buses for the following school year.

## XX. SPECIAL TRANSPORTATION SERVICE

A. When state-owned/leased buses are used by the schools for educational purposes other than transporting students to and from school, the cost of operation shall be borne by the school district. The operator shall be paid by the local school district. In addition, a charge for the use of the bus (use fee) as determined by the Department and approved by the SBE, payable to the Department, shall be made. The Board of Trustees will be responsible for damages to the bus as a result of abuse. The bus use fees are applicable to all trips other than the regularly scheduled trips or trip segments to and from school as shown on the approved route description for the school district.

B. The use of state-owned/leased buses for purposes other than transporting students to and from school shall in no way conflict with the regular school schedule.

C. The use of state-owned/leased buses shall be limited to those events and activities sponsored by school districts.

D. Request for documentation of the use of buses for purpose of special services must be secured from the designated representative of the Department prior to the vehicle's use.

E. The use of state-owned/leased buses for special purposes for trips outside the State shall be limited to athletic and other school activities in adjacent counties in Georgia and North Carolina with the following exceptions. In North Carolina: Polk, Henderson, Transylvania, Jackson, and Macon Counties have mountainous terrain. State-owned/leased buses shall not be used for special activities in these counties without prior route approval by the designated representative of the Department.

F. The Department permit For The Use Of School Buses prepared by the school district must accompany the operator on each trip made by the bus.

G. The bus use fees shall be based on formula approved by the SBE. The formula shall reflect the operational cost experienced by the Department plus an appropriate vehicle replacement charge. In compliance with approved SBE bus use fee formula, the Department shall establish an annual fee for bus use.

Should any of the regulations listed in this section governing the use of school buses for special services be violated in any school district, the Department may withdraw approval to use state-owned school buses from any further special service.

XXI. Variations from Transportation Regulations may be approved by the Department when such variations are clearly in the interest of safety, efficiency and economy. School districts seeking a variance from a regulation must submit a written request seeking approval from the Department. The Department will approve or disapprove the request, in writing.

XXII. In accordance with Section 59-67-520 of the Code of Laws of South Carolina, as amended, it is hereby declared the policy of the SBE to provide transportation for handicapped students within a school district to the nearest school in which a class is located serving the student's disabilities.

XXIII. Eligibility for Transportation - Eligibility for transportation under State Board Regulation 43-80 Section XXII shall be limited to the following types of disabilities listed in State Board Regulation 43-243.1:

A. Autism (also referenced as autism spectrum disorder) including Autistic Disorder, Pervasive Developmental Disorder Not Otherwise Specified (PDD-NOS), or Asperger's Syndrome

B. Deaf-blindness

C. Deaf/Hard of Hearing

D. Developmental Delay

E. Emotional Disability

F. Intellectual Disabilities

G. Multiple Disabilities



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H. Other Health Impairment

I. Orthopedic Impairment

J. Specific Learning Disabilities

K. Speech-Language Impairment

L. Traumatic Brain Injury

M. Visual Impairment

N. Other disabilities identified in Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.

Legal age for transporting students with disabilities are three- and four- years old and public school students (K-12) except for the hearing and visually handicapped which is 4-21 years of age. Students with disabilities may be transported on regular route school buses.

XXIV. The Board of Trustees shall be responsible for locating classes for students with the disabilities listed in State Board Regulation 43-80 Section XXIII in or near the geographic center of the district or area so that all students with these disabilities can be transported on the same bus. The Department shall not be required to provide separate transportation for students with disabilities.

XXV. Transportation will be provided either on state-owned/leased buses or by contract between the Department and the school district, whichever is most economical to the State.

The process for requesting transportation is limited to the two following options:

A. State-Owned/Leased Buses—State-owned/leased buses will be assigned when the number of eligible students (usually minimum of 6) live within an area to make a bus route feasible from a time and mileage standpoint. School district officials shall submit a map and route description to the designated representative of the Department to justify assignment of the bus. Maps and descriptions will be submitted annually in the same manner as for regular bus routes.

B. Contract Transportation—Contract transportation will be limited to students who cannot be transported efficiently by state-owned/leased buses. The procedures listed in this section will be used in requesting contract transportation.

1. The State Department will be notified of the name of the student, location of residence, and school to which such student(s) is to be assigned. If it is determined that the student or students cannot be transported on a bus already assigned to the district or if the number of students is insufficient to justify an additional bus, then, a contract will be signed between the school district and the parent or other individuals for transportation.

2. Contracts between the school district and parents or other individuals to transport one student will be based on a rate per mile as determined by the Department and approved by the SBE for each 90 school days. If more than one student is transported, the contract may be used on the rate per vehicle or passenger mile for the actual number of miles traveled.

3. When it is in the best interest of the State, contracts may be written for transporting students who live within 2 miles of the school. The SBE shall establish the funding limitation on the basis of a designated amount of dollars per student for 90 school days.

4. The maximum payment for transportation for any one student shall not exceed the amount established annually by the SBE for each 90 school days unless a special exception is approved by the SBE.

5. All proposed contracts must be approved by the Department prior to commencing transportation. Reimbursement will be from the date of approval.

6. Contract transportation will not be approved if transportation on state-owned/leased buses is more cost effective or productive except when otherwise required by the student's Individual Education Plan. Exceptions may be made in extreme cases upon written recommendation of the affected student's licensed medical doctor and the school district and upon approval by the Department.

XXVI. Transportation will be provided only during the regular school term not to exceed 180 school days.

XXVII. Transportation on state-owned/leased buses or by contract of students attending multi-district programs or programs conducted by agencies other than the public schools, will be provided only if the home district has received approval of "another facilities agreement" from the Department. This approval must be received prior to commencing transportation. The home district is responsible for securing contracts for transportation routes and for the requisitioning of funds.

XXVIII. Persons contracting to provide transportation must have insurance coverage at least equal to that carried on state-owned/leased buses as required by Section 59-67-710 of the Code of Laws of South Carolina, as amended.

XXIX. Reimbursement to the district for contracts shall be made at the end of each 90 school days. Request for reimbursement shall be submitted on a form furnished by the Department. The request for reimbursement shall be pro-rated if student attends fewer than 90 school days.

XXX. The Department will establish a School Bus Specifications Committee for the purpose of creating specifications for the procurement of state-owned/leased school buses. The Committee will be composed of members of the General Assembly or their designees; representatives of the business community; mechanical engineers profession; both local school district and state student transportation officials representing school bus maintenance, administration, driver training, and operations; and a representative of the State Fiscal Accountability Authority, Procurement Services. The State Superintendent of Education (SSE) or designee will make Committee appointments. The Committee will be responsible for reviewing, amending, and developing school bus specifications for all types of school buses purchased/leased by the State. These specifications will assure that the student transportation needs of the State are efficiently and effectively addressed. The Committee will recommend the specifications to the SSE or designee for approval.

**Fiscal Impact Statement:**

No additional funding is requested. The South Carolina Department of Education (SCDE) estimates that no additional costs will be incurred by the State and its political subdivisions in complying with the proposed revisions to R.43-80.

**Statement of Rationale:**

R.43-80 determines the criteria required to have an aide accompany a disabled student on a school bus, if in a wheelchair or requires use of child-restraint system, and the student is on an IEP (Individualized Education Program) or accommodations plan under Section 504 of the Rehabilitation Act of 1973 (504 plan).

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Document No. 5111  
**STATE ETHICS COMMISSION**  
CHAPTER 52

Statutory Authority: 1976 Code Sections 8-13-320, 8-13-365, 8-13-1110, 8-13-1140, 8-13-1306, and 8-13-1356

52-501. General.

52-502. Responsibility of Persons Accepting Declarations of Candidacy or Petitions for Nomination.

### **Synopsis:**

The State Ethics Commission proposes to amend Regulation 52-501 to replace language related to paper filing with language related to electronic filing and Regulation 52-502 to replace language related to paper filing with language related to electronic filing and to replace the outdated filing deadlines with those currently mandated by statute.

### Section-by-Section Discussion:

52-501. General.

A.-B. No changes.

C. Add reference to electronic filing and delete reference to paper filing.

D. No changes.

52-502. Responsibility of Persons Accepting Declarations of Candidacy or Petitions for Nomination.

A. No changes.

B. Delete in its entirety.

C. Add reference to electronic filing and delete reference to paper filing.

D. Delete in its entirety.

The Notice of Drafting was published in the *State Register* on June 24, 2022.

### **Instructions:**

Print the regulation as shown below. All other items remain unchanged.

### **Text:**

## ARTICLE 5

### CAMPAIGN PRACTICES AND REPORTS

(1976 Code Sections 8-13-320, 8-13-365, 8-13-1306, 8-13-1110, 8-13-1140, and 8-13-1356)

52-501. General.

A. The Article governs the campaign practices and reporting requirements of all committees and all candidates for public office in this State except for members of or candidates for the office of State Senator or State Representative; members of or candidates for Federal office; members of or candidates for the Judiciary; however, probate judges are subject to these regulations.

B. The Commission's Committee Statement of Organization and Campaign Disclosure Forms are the forms adopted by the Commission for use in complying with the registration and disclosure requirements of the Act.

C. Committee Statement of Organization and Campaign Disclosure Forms must be filed electronically using the Commission’s electronic filing system.

D. All candidates or committees must maintain and preserve all records substantiating the information required by this Article and the Act for four years. These records shall be made available to the Commission upon request without charge.

52-502. Responsibility of Persons Accepting Declarations of Candidacy or Petitions for Nomination.

A. This regulation applies to candidates to publicly elected offices and does not apply to persons appointed or elected on advice and consent of either or both houses of the General Assembly and/or the Governor.

B. No later than five business days after the candidacy books close, the official receiving the declarations of candidacy or petitions for nomination shall electronically file the Roster of Candidates with the Commission.

**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 to conform to the statutory language requiring filings with the Commission to be submitted through the Commission’s electronic filing system and to remove references to paper filing.

Document No. 5112  
**STATE ETHICS COMMISSION**  
 CHAPTER 52

Statutory Authority: 1976 Code Sections 8-13-320 and 8-13-540

52-702. Initiating a Complaint.

52-713. Conduct of Hearings.

52-718. Confidentiality of Proceedings.

**Synopsis:**

The State Ethics Commission proposes to amend Regulation 52-702 regarding the Commission’s jurisdiction, Regulation 52-713 regarding Commission hearings, and Regulation 52-718 regarding confidentiality during the complaint process.

Section-by-Section Discussion:

52-702. Initiating a Complaint.

A. Delete language excluding members of General Assembly from Commission’s complaint process.

B. Delete language regarding Administrative Law Judges.

C.-D. No changes.

52-713. Conduct of Hearings.

A. No changes.

B. Delete in its entirety.

C.-D. No changes.

52-718. Confidentiality of Proceedings.

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- A. Delete in its entirety.
- B.-C. No changes.
- D. Delete in its entirety.
- E. Delete in its entirety.

The Notice of Drafting was published in the *State Register* on June 24, 2022.

### Instructions:

Print the regulation as shown below. All other items remain unchanged.

### Text:

#### ARTICLE 7

#### CONTESTED CASE PROCEDURE

(1976 Code Sections 8-13-320 and 8-13-540)

##### 52-702. Initiating a Complaint.

- A. A complaint may be filed against any person covered by the Act.
- B. Jurisdiction over complaints concerning a Probate Judge or candidates for the office of Probate Judge extend to allegations of the campaign practices, campaign disclosure, and disclosure of economic interests provisions of the Act.
- C. For purposes of the statute of limitations the date on which a complaint is filed in the Commission offices is the date the action is commenced.
- D. The Commission's Complaint Form is the official form for use in filing a complaint. The Form must be completed in full and contain a statement of facts concerning the allegations forming the foundation of the complaint. The complaint must identify the Respondent with specificity and bear the signature of the Complainant.

##### 52-713. Conduct of Hearings.

- A. A hearing is held before three members of the State Ethics Commission randomly selected from the entire Commission membership. One Commissioner is designated the Panel Chair who shall have the authority to hear preliminary and interlocutory matters and take such other action as is necessary to conduct the hearing.
- B. In the event that a hearing panel member is unable to attend a hearing, the hearing will proceed with the remaining members present. The absent member will be provided the record of the hearing prior to entering his vote.
- C. In the event that a hearing panel member is unable to render a decision due to illness or incapacity, the Panel Chair shall draw the name of another Commission member to review the record and enter his vote.

##### 52-718. Confidentiality of Proceedings.

- A. The Respondent may waive the confidentiality of the proceeding in writing filed with the Commission.
- B. The requirements of confidentiality do not apply to the following:
  - (1) Providing the identity of the Complainant to the Respondent.
  - (2) Disclosing information by the Commission or its staff necessary to conduct an investigation and hearing, to issue subpoenas, and any other action related to the contested case proceedings.
  - (3) Referring or releasing information to another prosecuting authority.

C. After the final disposition of a matter where a violation is found, the Commission shall prepare a public record which shall consist of the pleadings and record of the hearing. The Commission's internal and investigatory papers including attorney work product shall not be made part of the public record.

**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 to conform to the statutory language regarding candidates for and members of the General Assembly and to delete provisions related to confidentiality that conflict with the statute.

Document No. 5113  
**STATE ETHICS COMMISSION**  
CHAPTER 52  
Statutory Authority: 1976 Code Section 8-13-320

52-208. Computation of Time.  
52-210. Notice of Representation.

**Synopsis:**

The State Ethics Commission proposes to amend Regulation 52-208 to clarify that the proper court for appeals from Commission contested case hearings is the Court of Appeals and Regulation 52-210 to clarify that the Commission's attorney alone represents the Commission and the Complainant during a contested case hearing.

Section-by-Section Discussion:

52-208. Computation of Time.

A.-B. No changes.  
C. Change Circuit Court to Court of Appeals.

52-210. Notice of Representation.

A. Remove language regarding Complainant's counsel.  
B.-D. No changes.

The Notice of Drafting was published in the *State Register* on June 24, 2022.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

ARTICLE 2

GENERAL

(1976 Code Section 8-13-320)

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### 52-208. Computation of Time.

A. In computing any period of time prescribed or allowed by these regulations or statutes, the day of the act, event or default after which the period of time begins to run is not included. The last day is included unless it is a Saturday, Sunday or a State or Federal Holiday in which event the period runs until the end of the next day which is not a Saturday, Sunday or State or Federal holiday.

#### B. Extension of Time.

(1) In a contested case proceeding, when by these regulations, statute, notice or order of the Commission, an act is required or allowed to be done at or within a specified time, the time may be extended by written agreement of counsel for all parties for an additional period not exceeding the original time.

(2) In matters other than contested case proceedings, the Executive Director or his designee is authorized to extend the period of time as permitted by these regulations or statutes.

(3) In all other cases, the chair of the Commission panel or chair of the Commission may extend the period of time as permitted by these regulations, statutes or within his discretion.

C. The time for filing a request for Commission review or an appeal to the Court of Appeals is jurisdictional and may not be extended by consent or order.

### 52-210. Notice of Representation.

A. In a contested case, the Complainant and the Commission are represented by the Commission's attorney.

B. Other parties may be represented as follows:

(1) Individuals may appear on their own behalf;

(2) A member of a partnership may represent the partnership;

(3) An officer of a corporation, trust, committee or association may represent the corporation, trust, committee or association;

(4) An officer or employee of any governmental unit, agency, or authority may represent, appear and testify for that unit, agency, or authority;

(5) An attorney may represent any party.

C. Each attorney or other representative of a person or entity shall file a notice of appearance. The notice must indicate the person or entity on whose behalf the appearance is made. An individual acting in a representative capacity may be required to demonstrate authority to act in that capacity.

D. An attorney or other representative of a person or entity must file a written notice of intent before withdrawing from participation in the proceeding.

### **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 to conform to the statutory language requiring appeals from the Commission's contested case hearings to be to the South Carolina Court of Appeals and to clarify that Complainants are not individually represented during Commission hearings.

Document No. 5114  
**STATE ETHICS COMMISSION**  
CHAPTER 52

Statutory Authority: 1976 Code Sections 2-17-20, 2-17-25, 2-17-30, 2-17-35, 2-17-40, 2-17-90, 8-13-320, and 8-13-365

52-402. Lobbyist's and Lobbyist's Principal Registration, Termination, Supplemental Registration, Record Keeping, and Reregistration Requirements.

52-403. Lobbyists and Lobbyist's Principal Reporting Requirements.

**Synopsis:**

The State Ethics Commission proposes to amend Regulations 52-402 and 52-403 regarding Commission filings for lobbyists and lobbyist's principals, to include updating language to reflect the current electronic filing system and to align the filing deadlines with those required by statute.

Section-by-Section Discussion:

52-402. Lobbyist's and Lobbyist's Principal Registration, Termination, Supplemental Registration, Record Keeping, and Reregistration Requirements.

- A. No changes.
- B. Adds reference to electronic filing and deletes reference to paper filing.
- C. Adds reference to electronic filing and deletes reference to paper filing.
- D.-E. No changes.

52-403. Lobbyists and Lobbyist's Principal Reporting Requirements.

- A. Updates filing deadlines.
- B. Updates filing deadlines and removes outdated reporting period.
- C. Updates filing deadlines.
- D. Updates filing deadlines.

The Notice of Drafting was published in the *State Register* on June 24, 2022.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

ARTICLE 4

LOBBYISTS, LOBBYIST PRINCIPALS AND RATING ENTITIES

(1976 Code Sections 2-17-20, 2-17-25, 2-17-30, 2-17-35, 2-17-40, 2-17-90, 8-13-320, and 8-13-365)

52-402. Lobbyist's and Lobbyist's Principal Registration, Termination, Supplemental Registration, Record Keeping, and Reregistration Requirements.

A. Lobbyists and lobbyist's principals shall register with the Commission.

(1) Registration is made by fully completing the appropriate form and filing the original along with the applicable filing fee with the Commission.

(2) If a partnership, committee, association, corporation, labor organization, or any other organization or group of persons registers as a lobbyist or lobbyist's principal, then it must identify each person who will act as a lobbyist on its behalf during the covered period.

(3) Each lobbyist, except full-time State employees whose activities are limited to efforts on behalf of that particular State agency and the State, shall pay the statutory filing fee at the time of registration.

(4) A registration form which is not fully completed or is not accompanied by a filing fee for each lobbyist and each lobbyist's principal shall not be accepted by the Commission for filing.



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B. Each lobbyist and lobbyist's principal who intends to cease lobbying shall notify the Commission of the intent to terminate lobbying within ten days after ceasing lobbying.

(1) A notice of intent to terminate is made by electronic submission to the Commission. The notice is effective upon filing with the Commission unless a later date is indicated.

(2) The lobbyist and lobbyist's principal shall report lobbying activity and expenditures for any reporting period during which the lobbyist or lobbyist's principal was registered on the next regularly scheduled report.

(3) Reregistration within the same calendar year may be made by filing a new original registration statement and payment of a filing fee.

C. A lobbyist and/or lobbyist's principal shall file an amended registration statement indicating any substantial change in the information contained in the prior registration statement immediately but no later than fifteen days from the date of the change.

(1) To report a substantial change to a previously filed registration statement, a lobbyist or lobbyist's principal should file an amendment to their original registration using the Commission's electronic filing system.

(2) An additional filing fee is not required to file an amended registration statement.

(3) The lobbyist and lobbyist's principal shall be bound to the matters contained in its registration form until an amended form is filed with the Commission. A lobbyist or lobbyist's principal's activity outside the matters previously registered or conducted by persons who are not disclosed on the registration statement shall be deemed to constitute lobbying activity without proper registration.

D. Each lobbyist and lobbyist's principal shall maintain for a period of not less than four years records of their activity and provide the records upon written request to the Commission without charge.

E. Registration or reregistration by a lobbyist or lobbyist's principal will not be accepted until the reporting requirements provided under the Act and these regulations are met.

### 52-403. Lobbyists and Lobbyist's Principal Reporting Requirements.

A. Each lobbyist and each lobbyist's principal, except as provided in subparagraph (C) below, shall no later than June thirtieth and January thirty-first of each year, file a report with the Commission covering the lobbyist's and lobbyist's principal's expenditures arising during the filing period.

B. The filing periods are from January first to May thirty-first for the June thirtieth report and from June first to December thirty-first for the January thirty-first report.

C. Economic Development. When an approving official determines that the confidentiality of a state or local economic development project would be compromised by disclosure under this regulation and the approving official indicates by prior written approval that disclosure of the information would jeopardize the negotiations in an economic development project, the following action must be taken:

(1) The approving official must state in writing that disclosure of information would jeopardize negotiations in an economic development project. The prior written approval must state the approving official authorizes non-disclosure, generally list the economic development project, provide the public official's or public employee's name and governmental entity, and bear the date of the writing and signature of the approving official. The approving official's prior written approval is confidential and must be boldly marked as such.

(2) If the approving official has given his approval, the lobbyist's principal must file a confidential disclosure form marked boldly "Confidential Economic Development" and report the amount of the expense(s) associated with the recipient and information about the expenditure at the time he files his June thirtieth or January thirty-first reports. The confidential disclosure form shall be filed in addition to the disclosure reports required by these regulations and the Act.

(3) A public official or public employee who is required to file a statement of economic interests and who accepts from a lobbyist's principal in conjunction with an economic development project lodging, transportation, entertainment, food, meals, beverages, or an invitation to a function paid for by a lobbyist's principal must report this information as required by the Act and Regulation 52-603.

(4) Confidential forms are not part of the public record until the approving official determines that public disclosure is appropriate and notifies the Commission in writing that public disclosure is appropriate.

D. State Agency or Department's Filing of Lobbyist's Principal Disclosure Forms. If the State is a lobbyist's principal, the State Agency or department shall file no later than June thirtieth and January thirty-first of each

year a Lobbyist Principal Disclosure Form with the Commission covering that agency’s lobbying during that filing period.

(1) Failure to file the required registration form is subject to sanction in the same method, manner and amount as provided for lobbyists and lobbyist’s principals.

(2) [Reserved]

**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 reflect the use of the current electronic filing system and to align the filing dates and reporting periods with the current statutory language.

Document No. 5115  
**STATE ETHICS COMMISSION**  
 CHAPTER 52

Statutory Authority: 1976 Code Sections 8-13-320, 8-13-365, 8-13-1110, 8-13-1140, 8-13-1306,  
 and 8-13-1356

52-601. General.

52-607. Candidates’ and Incumbents’ Statements of Economic Interests.

**Synopsis:**

The State Ethics Commission proposes to amend Regulations 52-601 and 52-607 to delete language related to paper filing and to replace outdated filing deadlines with those required by statute.

Section-by-Section Discussion:

52-601. General.

- A. No changes.
- B. Delete in its entirety.
- C. Update filing deadline.
- D. Update filing deadline.

52-607. Candidates’ and Incumbents’ Statements of Economic Interests.

- A. No changes.
- B. Delete in its entirety.
- C. Delete reference to paper filing and include reference to electronic filing.
- D. Delete in its entirety.
- E. No changes.

The Notice of Drafting was published in the *State Register* on June 24, 2022.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

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### Text:

### ARTICLE 6

#### STATEMENT OF ECONOMIC INTERESTS AND CONTRACT DISCLOSURE FORMS

(1976 Code Sections 8-13-320, 8-13-365, 8-13-1110, 8-13-1140, 8-13-1306, and 8-13-1356)

#### 52-601. General.

A. The Commission's Statement of Economic Interests Form and the Contract Disclosure Form are the official forms required to be filed with the Commission in order to comply with the disclosure requirements required under the Act and this Regulation.

B. The Statement of Economic Interests reporting period is the previous calendar year from January 1, through December 31. The first Statement of Economic Interest is required to be filed upon taking the oath of office or being employed with the State or political subdivision. Thereafter, an annual updated Statement is required to be filed with the Commission no later than March 30. The Contract Disclosure Form reporting period is for the fiscal year of July 1, through June 30 of each year and is due on June 30 of each year.

C. A person required to file a Statement who is no longer in office on March 30 of the year following the first filing, is not required to file an updated Statement.

#### 52-607. Candidates' and Incumbents' Statements of Economic Interests.

A. This regulation governs the filing of a Statement of Economic Interest for all candidates for public office in this State except for members of or candidates to the office of State Senator and State Representative, candidates to or members of Federal office, candidates for or members of the judiciary except for probate judges and persons who are public officials and have filed a statement in the same calendar year as the year in which they file a declaration for candidacy or petition for nomination.

B. No later than five business days after the candidacy books close, the official receiving the declarations of candidacy or petitions for nomination shall electronically submit the Candidates Roster to the Commission.

C. On the fifth day following the election, the election official shall file a Successful Candidate Roster with the Commission providing the successful candidate's name and elected position.

### **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 to conform to the statutory language requiring filings with the Commission to be submitted through the Commission's electronic filing system and to remove language made unnecessary by statute.

Document No. 5210  
STATE BOARD OF FINANCIAL INSTITUTIONS  
CHAPTER 15  
Statutory Authority: 1976 Code Section 34-1-110

15-24. Borrower's Preference Re Attorney and Insurance.

**Synopsis:**

The State Board of Financial Institutions (BOFI) proposes to repeal Regulation 15-24 because the underlying state law references in this regulation are no longer correct, and the subject matter of the regulation is now addressed in the Consumer Protection Code, Section 37-10-102.

The Notice of Drafting was published in the *State Register* on June 23, 2023. The Proposed Regulation was published in the *State Register* on August 25, 2023.

**Instructions:**

Repeal the regulation in its entirety.

**Text:**

15-24. Repealed.

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

Regulation 15-24 requires lenders and lending institutions to allow borrowers to choose their own legal counsel and insurance agents in relation to loans of five thousand dollars or more. The State Board of Financial Institutions proposes to delete this regulation because the underlying state law references in this regulation are no longer correct, and the subject matter of the regulation is now addressed in the Consumer Protection Code at Section 37-10-102. Therefore, this regulation is obsolete.

Document No. 5215  
STATE BOARD OF FINANCIAL INSTITUTIONS  
CHAPTER 15  
Statutory Authority: 1976 Code Section 34-1-60

15-23. Home Improvement Loans, Savings and Loan.

**Synopsis:**

The State Board of Financial Institutions (BOFI) proposes to repeal Regulation 15-23 because the federal law referenced therein has changed, and the 15% cap for outstanding home improvement loans is no longer applicable.

The Notice of Drafting was published in the *State Register* on June 23, 2023.

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### **Instructions:**

Repeal the regulation in its entirety.

### **Text:**

15-23. Repealed.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

Regulation 15-23 addresses home improvement loans made by savings and loan and building and loan associations. The State Board of Financial Institutions proposes to delete this regulation because the federal law referenced therein has changed, and the loan amount maximum 15% cap for outstanding home improvement loans is no longer applicable.

Document No. 5216  
**STATE BOARD OF FINANCIAL INSTITUTIONS**  
CHAPTER 15  
Statutory Authority: 1976 Code Sections 34-1-60 and 34-1-110

15-6. Insurance and Fidelity Bond Protection.

### **Synopsis:**

The State Board of Financial Institutions (BOFI) proposes to repeal Regulation 15-6 as it contains obsolete references to and rules regarding cash depositories.

The Notice of Drafting was published in the *State Register* on June 23, 2023. The Proposed Regulation was published in the *State Register* on August 25, 2023.

### **Instructions:**

Repeal the regulation in its entirety.

### **Text:**

15-6. Repealed.

### **Statement of Rationale:**

Regulation 15-6 sets forth insurance and fidelity bond rules for state-chartered cash depositories. The South Carolina Code no longer provides for a cash depository charter, and there are no such remaining institutions chartered in South Carolina. The proposed deletion will remove this regulation, as it is no longer necessary.

### **Fiscal Impact Statement:**

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

Document No. 5217  
**STATE BOARD OF FINANCIAL INSTITUTIONS**  
CHAPTER 15  
Statutory Authority: 1976 Code Sections 34-1-60 and 34-1-110

15-5. Investment of Surpluses.

**Synopsis:**

The State Board of Financial Institutions (BOFI) proposes to repeal Regulation 15-5 as it contains obsolete references to and rules regarding cash depositories.

The Notice of Drafting was published in the *State Register* on June 23, 2023. The Proposed Regulation was published in the *State Register* on August 25, 2023.

**Instructions:**

Repeal the regulation in its entirety.

**Text:**

15-5. Repealed.

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

Regulation 15-5 sets forth surplus investment rules for state-chartered cash depositories. The South Carolina Code no longer provides for a cash depository charter, and there are no such remaining institutions chartered in South Carolina. The proposed deletion will remove this regulation, as it is no longer necessary.

Document No. 5219  
**STATE BOARD OF FINANCIAL INSTITUTIONS**  
CHAPTER 15  
Statutory Authority: 1976 Code Section 34-1-110

15-9. Limitations and Restrictions on Loans, Savings and Loan.

**Synopsis:**

The State Board of Financial Institutions (BOFI) proposes to repeal Regulation 15-9 as it conflicts with Section 34-28-510, which was passed after this regulation.

The Notice of Drafting was published in the *State Register* on June 23, 2023. The Proposed Regulation was published in the *State Register* on August 25, 2023.

**Instructions:**

Repeal the regulation in its entirety.

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### **Text:**

15-9. Repealed.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

Regulation 15-9 sets limitations on loans by savings and loan associations. The State Board of Financial Institutions proposes to delete this regulation because the limitations set forth therein conflict with the provisions of Section 34-28-510 which sets forth the modern standard for loans issued by savings and loan associations.

Document No. 5207  
**STATE BOARD OF FINANCIAL INSTITUTIONS**  
CHAPTER 15  
Statutory Authority: 1976 Code Section 34-1-60

15-19. Mobile Home Loans, Savings and Loan.

### **Synopsis:**

The State Board of Financial Institutions (BOFI) proposes to repeal Regulation 15-19 to remove obsolete and outdated state and federal laws, as well as a federal regulatory entity that no longer exists, and because the subject matter is addressed in Section 34-28-510.

The Notice of Drafting was published in the *State Register* on June 23, 2023. The Proposed Regulation was published in the *State Register* on August 25, 2023.

### **Instructions:**

Repeal the regulation in its entirety.

### **Text:**

15-19. Repealed.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

Regulation 15-19 establishes rules for savings and loans when financing the purchase of a mobile home. The State Board of Financial Institutions proposes to delete this regulation because it references outdated state and federal laws, as well as a federal regulatory entity that no longer exists, and because the subject matter is addressed in Section 34-28-510.

Document No. 5208  
**STATE BOARD OF FINANCIAL INSTITUTIONS**  
 CHAPTER 15  
 Statutory Authority: 1976 Code Section 34-26-210

15-40. Notice of Intention to Withdraw Shares.

**Synopsis:**

The State Board of Financial Institutions (BOFI) proposes to repeal Regulation 15-40 to remove obsolete references to state law, and remove limitations on credit unions which are currently sufficiently addressed in Code Section 34-26-210(2).

The Notice of Drafting was published in the *State Register* on June 23, 2023. The Proposed Regulation was published in the *State Register* on August 25, 2023.

**Instructions:**

Repeal the regulation in its entirety.

**Text:**

15-40. Repealed.

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

Regulation 15-40 establishes rules for credit unions dealing with deposit withdrawals and loans when the institution is at risk of failure. The State Board of Financial Institutions proposes to delete this regulation because restrictions on withdrawal in emergency are already addressed in Code Section 34-26-210(2).

Document No. 5209  
**STATE BOARD OF FINANCIAL INSTITUTIONS**  
 CHAPTER 15  
 Statutory Authority: 1976 Code Section 34-1-60

15-10. Participation in RFC Loans.

**Synopsis:**

The State Board of Financial Institutions (BOFI) proposes to repeal Regulation 15-10 to remove obsolete language regarding the Reconstruction Finance Corporation, which was dismantled in 1953.

The Notice of Drafting was published in the *State Register* on June 23, 2023. The Proposed Regulation was published in the *State Register* on August 25, 2023.

**Instructions:**

Repeal the regulation in its entirety.



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### **Text:**

15-10. Repealed.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

Regulation 15-10 governs bank participation in loans made by the Reconstruction Finance Corporation, which is no longer in existence. The State Board of Financial Institutions proposes deletion of this regulation as its provisions are obsolete.

Document No. 5213  
**STATE BOARD OF FINANCIAL INSTITUTIONS**  
CHAPTER 15  
Statutory Authority: 1976 Code Section 34-1-60

15-11. Servicemen's Readjustment Act.

### **Synopsis:**

The State Board of Financial Institutions (BOFI) proposes to repeal Regulation 15-11 to remove obsolete references to the Servicemen's Readjustment Act of 1944, which lapsed in 1956.

The Notice of Drafting was published in the *State Register* on June 23, 2023.

### **Instructions:**

Repeal the regulation in its entirety.

### **Text:**

15-11. Repealed.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

Regulation 15-11 sets forth provisions for state-chartered banks related to the Servicemen's Readjustment Act of 1944, a federal law which has lapsed. The State Board of Financial Institutions proposes deletion of this regulation as its provisions are obsolete.

Document No. 5191  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
**CHAPTER 61**  
 Statutory Authority: 2022 Act No. 119, Section 5, effective January 27, 2022

61-107.20. Solar Energy Systems. (New)

**Synopsis:**

Pursuant to 2022 Act No. 119, Section 5, the Department of Health and Environmental Control (Department) is directed to develop rules to guide all South Carolinians invested in, selling, installing, and using photovoltaic (PV) modules and energy storage system batteries in the management of end-of-life PV modules and energy storage system batteries on solar projects, and the decommissioning of solar projects in excess of thirteen acres. The Department proposes new regulation R.61-107.20, Solar Energy Systems, to create basic guidelines for large solar energy systems. The new regulation is designed to establish a registration requirement and facilitate all large solar energy systems have a decommissioning plan, which includes financial assurance, removal of PV modules and accompanying equipment, and remediation of the land, if necessary. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of this proposed new regulation.

The Department had a Notice of Drafting published in the March 24, 2023, South Carolina State Register.

Section-by-Section Discussion of New Regulation

<b>Section</b>	<b>Type of Change</b>	<b>Purpose</b>
Regulation Number, Regulation Title, and Statutory Authority	Addition	Assigns a regulation number and title and establishes the Department’s statutory authority.
Table of Contents	Addition	Gives an overview of the contents and organization of the regulation.
A. Applicability	Addition	Lays out the pertinent activities by providing guidance, rules, and requirements for compliance with this regulation.
B. Definitions	Addition	Defines the terms used throughout the regulation and presents the terms in alphabetical order.
C. General Provisions	Addition	Describes the general requirements that apply to all large solar energy systems.
D. Registration	Addition	Describes the registration requirements that apply to all large solar energy systems.
E. Decommissioning Requirements	Addition	Describes requirements for a facility’s decommissioning of a large solar energy system after certain conditions are met.
F. Financial Assurance	Addition	Describes the minimum financial assurance standards for compliance with Section E.

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G. Severability	Addition	Protects the remaining portion of the regulation should any part or language be found invalid.
H. Violations and Penalties	Addition	Establishes the penalties for violation of this regulation, or any permit, order, or standard issued pursuant to the regulation.

### Instructions:

Add R.61-107.20, Solar Energy Systems, as written below to the S.C. Code of Regulations.

### Text:

61-107.20. Solar Energy Systems.

Statutory Authority: Section 5 of Act 119 of 2022

### Table of Contents

- A. Applicability
- B. Definitions
- C. General Provisions
- D. Registration Requirements
- E. Decommissioning Requirements
- F. Financial Assurance
- G. Severability
- H. Violations and Penalties

#### A. Applicability.

1. This regulation establishes procedures, documentation, and other requirements which must be met to operate large solar energy systems.
2. The requirements of this regulation are not applicable to rooftop solar energy systems or any other solar energy system that does not meet the definition of a large solar energy system.
3. The requirements of this regulation do not supersede or amend R.61-79, Hazardous Waste Management Regulations, or any other applicable laws, statutes, rules, and regulations.
4. The requirements of this regulation do not supersede or amend R.61-107, Solid Waste Management Regulations, or any other applicable laws, statutes, rules, and regulations.

#### B. Definitions.

1. "Decommission" means the removal and proper disposal of solar energy equipment, facilities, or devices located on real property utilized by or in a large solar energy system. "Decommission" includes the reasonable restoration of the property upon which such solar equipment, facilities, or devices are located, including, but not limited to:

- a. soil stabilization; and

b. revegetation of the ground cover of the real property disturbed by the installation of such equipment, facilities, or devices.

2. "Department" means the South Carolina Department of Health and Environmental Control.

3. "End-of-life solar panel" means, for the purpose of this regulation, any solar panel, solar energy equipment or other materials that is no longer suitable for its original intended purpose because of wear, damage, or defect.

4. "Existing large solar energy system (system)" means a large solar energy system installed prior to promulgation of this regulation. The system is considered installed if: onsite physical construction has begun, or the owner or operator has entered into contractual obligations for the installation of the system.

5. "Financial assurance mechanism" means, for the purpose of this regulation, a mechanism designed to demonstrate that sufficient funds will be available to meet specific environmental protection needs of a large solar energy system. Available financial assurance mechanisms include cash, insurance, trust funds, surety bonds, letters of credit, certificates of deposit, and financial tests as determined by the Department, per regulation.

6. "Generation" means the act or process of producing waste materials.

7. "Ground-mounted solar energy systems" means a solar energy system that is structurally mounted to the ground.

8. "Hazardous waste" is defined in Section 44-56-20 of the South Carolina Hazardous Waste Management Act and is applicable to this regulation.

9. "Landowner" means a person or corporation who has assumed legal ownership of the property upon which a solar energy system is constructed.

10. "Large solar energy system" means a ground-mounted solar energy system that occupies in excess of thirteen (13) acres.

11. "Operator" means the person or corporation responsible for the overall operation of a solar energy system.

12. "Owner" means the person or corporation who has assumed legal ownership of the solar energy system through the provisions of a contract or other legally binding transfer of ownership.

13. "Person" means an individual, business entity, partnership, limited liability company, corporation, not-for-profit corporation, association, public benefit corporation, or public authority.

14. "Photovoltaic device" means a device that generates electricity directly from sunlight via an electronic process that occurs naturally in certain types of material, such as semiconductors.

15. "Reasonably restored" means to place a solar energy system back into its original state or in accordance with any other applicable contract between the owner and landowner.

16. "Rooftop solar energy system" means a solar energy system that is structurally mounted to the roof of a house, building, or other structure and does not qualify as a large solar energy system.

17. "Solar energy equipment" means electrical material, hardware, inverters, conduit, storage devices, footings, braces, stands or any other equipment to any electric grid equipment associated with the operation of a solar energy system.

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18. “Solar energy system” means components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, solar panels and solar energy equipment. The area of a solar energy system includes all the land inside the perimeter of the solar energy system, which extends to any interconnection equipment.

19. “Solar panel” means a photovoltaic device capable of collecting and converting solar energy into electricity.

20. Solid waste” is defined in Section 44-96-40 of the South Carolina Solid Waste Policy and Management Act and is applicable to this regulation.

### C. General Provisions.

1. Large solar energy systems shall comply with all federal, state, and local zoning, land use, and other applicable ordinances which include, but are not limited to, financial assurance requirements from local governments.

2. All solid waste and hazardous waste generated within the operation, routine or unexpected maintenance, or decommissioning of a large solar energy system’s operation shall be managed according to all applicable laws, statutes, rules, and regulations.

### D. Registration Requirements.

1. Persons intending to operate a new large solar energy system shall submit a completed registration, prior to operation, via a form provided by the Department. The registration includes the following information:

- a. Name of the large solar energy system;
- b. Address and tax map ID number of the property upon which the large solar energy system will be located;
- c. Landowner information which includes name, address, and contact information;
- d. Owner information which includes name, address, and contact information;
- e. Operator information which includes name, address, contact information;
- f. Number of photovoltaic modules;
- g. Number of energy storage system batteries;
- h. Projected date of decommissioning; and

i. Signed agreement between owner and landowner, which confirms the plan for land restoration after decommissioning.

2. Existing large solar energy systems operating before the effective date of this regulation shall have one hundred eighty (180) calendar days from the regulation’s effective date to comply with the provisions of this regulation.

3. Registrations shall be updated every five (5) years from the registration submission date, or with a transfer of ownership, until the site is completely decommissioned.

### E. Decommissioning Requirements.

1. Five (5) years prior to a large solar energy system's projected end-of-life, the registrant shall submit to the Department a decommissioning plan for review and approval. The decommissioning plan shall be updated if any changes occur at the facility that require a deviation from the approved decommissioning plan, which includes the cost estimate.

2. Following a continuous twelve (12) month period in which no electricity is generated, the registered owner/operator will have twelve (12) months to complete decommissioning of the large solar energy system, unless otherwise approved by the Department.

3. Decommissioning shall be considered complete once all components of a large solar energy system are removed and properly disposed of, or the property upon which such solar equipment, facilities, or devices are located have been reasonably restored.

4. The decommissioning plan shall include:

a. A description of the large solar energy system that includes:

(1) Total property acreage,

(2) Total acreage used for solar panels and accessory equipment,

(3) The proposed number of solar panels for decommissioning, and

(4) A list of all components of the solar energy system to be properly recycled or disposed of in accordance with the decommissioning plan.

b. A statement of the objective of the decommissioning process. An example of an objective can be the following: to reasonably restore the site to its prior use or to a different use as approved by the owner and landowner;

c. The estimated timeframe it will take to complete the decommissioning process;

d. A description of the tasks involved in decommissioning and the types of equipment that will be required;

e. The registrant shall provide a detailed final decommissioning estimate of the cost of recycling or disposing of all components of the solar energy system, including, but not limited to, solar panels, electrical material, hardware, inverters, conduits, storage devices, footings, braces, stands, or any other appurtenances associated with the operation of a solar energy system. A final decommissioning cost estimate shall provide estimates for third-party costs to properly recycle or dispose of all components of the solar energy system and perform any post-closure care. If applicable, a salvage plan may be included to support proposed salvage values.

f. A financial assurance mechanism that will be used to meet the requirements of the cost estimate.

5. The owner or operator of the large solar energy system shall send a notification to the Department no later than thirty (30) calendar days after the completion of decommissioning.

#### F. Financial Assurance.

1. Once the Department has approved the decommissioning cost estimate, a financial assurance mechanism payable to the Department shall be submitted to the Department for review and approval.

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a. A large solar energy system can satisfy the requirements of this section by submitting proof of compliance with financial assurance requirements from the municipal or local government in which the large solar energy system is located.

b. If the municipal or local government submittal is less than the Department-approved decommissioning cost estimate, the Department will require a greater amount to satisfy the financial assurance requirement.

2. Local governments may also establish or retain financial assurance ordinances that are more stringent than the statewide minimum standards.

3. The mechanism shall be adequate to ensure the satisfactory decommissioning of the large solar energy system and post-closure care as required by this regulation in Section E(4).

4. During the remaining operational life of the large solar energy system, the facility owner/operator shall adjust the decommissioning cost estimate as needed for inflation.

a. The large solar energy system owner/operator may update the financial assurance mechanism as needed to account for salvage value.

b. At any time during its period of operation, the large solar energy system owner/operator shall increase the decommissioning cost estimate and the amount of financial assurance provided if changes to the decommissioning plan or facility conditions increase the maximum cost of decommissioning.

c. At any time during its period of operation, the large solar energy system owner/operator may reduce the amount of financial assurance provided for proper closure if the approved decommissioning cost estimate exceeds the maximum cost of decommissioning. Prior to reducing the amount of financial assurance, the justification for the reduction of the decommissioning cost estimate shall be submitted to the Department for review and approval. Provided the new cost estimate is approved, the owner/operator may then reduce the amount of financial assurance secured.

5. The financial assurance mechanism shall consist of one or more of the following mechanisms: cash, insurance, trust funds, surety bonds, letters of credit, certificates of deposit, and financial tests as determined by the Department per regulation.

6. The mechanism used to demonstrate financial assurance under this section shall ensure that the funds necessary to meet the costs of closure and corrective action for known releases will be available whenever needed. The owner/operator shall provide continuous coverage for corrective action and decommissioning until released from financial assurance requirements by the Department.

7. The Department may take possession of a financial assurance mechanism for failure to complete decommissioning, to complete post-closure care, or to renew or provide alternate acceptable financial assurance.

8. The requirements of this Section apply to all large solar energy systems except those owned and operated by local government, a region comprised of local governments, or state or federal government entities whose debts and liabilities are the debts and liabilities of the state or the United States.

### G. Severability.

Should any section, paragraph, sentence, clause, or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

### H. Violations and Penalties.

1. The Department may impose reasonable civil penalties on a large solar energy system for each day of violation of the provisions of this regulation, including violation of any Department order or standard.

**Fiscal Impact Statement:**

The requirements of this regulation would cause a cost assessment to the State General Fund. Staff anticipates there will be no cost to the Department to implement the directives of the Act and this proposed regulation. There are no fees established by the Act and this proposed regulation. Additional costs to state government are unanticipated.

**Statement of Need and Reasonableness:**

The following presents an analysis of the factors listed in 1976 Code Sections 1-23115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: New Solid Waste Management Regulation, Solar Energy Systems.

Purpose: The purpose of this new regulation is to comply with the requirements of 2022 Act No. 119, Section 5, which directs the Department to develop rules for solar projects in excess of thirteen acres. The new regulation is designed to establish a registration requirement for large solar sites and facilitate that all large solar energy systems have a decommissioning plan, which includes financial assurance, removal of PV modules and accompanying equipment, and remediation of the land, if necessary.

Legal Authority: 2022 Act No. 119, Section 5, effective January 27, 2022.

Plan for Implementation: The new regulation will take legal effect upon General Assembly approval and upon publication in the State Register. Department personnel will then take appropriate steps to inform the regulated community of the new regulation. Additionally, a copy of the regulation will be posted on the Department's website, accessible at [www.scdhec.gov/regulations-table](http://www.scdhec.gov/regulations-table). Printed copies may also be requested, for a fee, from the Department's Freedom of Information Office.

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

In 2022, the General Assembly passed Act No. 119, which in Section 5 instructs the Department to prepare regulations for the management of end-of-life PV modules and energy storage system batteries on solar projects in excess of thirteen acres. The Department proposes new regulation R.61-107.20, Solar Energy Systems, to establish basic requirements for large solar energy systems. This proposed regulation would require the Department to oversee a registration process for those who qualify as large solar energy systems, as well as the decommissioning of these sites at their end-of-life. This regulation is needed to comply with the requirements of 2022 Act No. 119 and will give the Department a basic framework with which to manage large solar energy systems and facilitate local approval for such sites.

**DETERMINATION OF COSTS AND BENEFITS:**

Internal costs: Implementation of this proposed regulation will not require additional resources beyond those allowed for by Act 119. The Department estimates that there are 78 current facilities that would need oversight under this regulation. This proposed regulation would require the Department to oversee a registration process for large solar energy systems as well as the decommissioning of these sites at their end-of-life. The Act does not establish a fee that would fund the implementation of this regulation.

External costs: There will be a cost for facilities that qualify as large solar energy systems. Costs include complying with registration requirements and decommissioning requirements that require these facilities to



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remove all solar panels and accompanying equipment, which includes providing a financial assurance mechanism to the Department. There are no registration or operating fees in this proposed regulation.

External benefits: With the state participating in oversight of large solar energy systems, there will be less of a burden on local government resources to manage such sites. It will benefit the residents of South Carolina as this proposed regulation assists in facilitating the proper disposal of solar panels at the end of their useful life.

### UNCERTAINTIES OF ESTIMATES:

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

### EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

This proposed new regulation will provide rules to facilitate the proper disposal of end-of-life large solar energy systems.

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

If this proposed new regulation does not become effective, the rules for large solar energy systems required by 2022 Act No. 119, Section 5 will not be implemented. The Department will not have any regulatory framework to manage the creation and operation of large solar energy systems.

### Statement of Rationale:

Here below is the Statement of Rationale pursuant to S.C. Code Section 1-23-110(A)(3)(h):

The requirements of 2022 Act No. 119, Section 5, directs the Department to develop regulations to guide all South Carolinians invested in, selling, installing, and using photovoltaic (“PV”) modules and energy storage system batteries in the management of end-of-life PV modules and energy storage system batteries on solar projects, and the decommissioning of solar projects in excess of thirteen acres. R.61-107.20, Solar Energy Systems, will establish basic oversight rules over large solar energy systems, including a registration requirement, and a requirement for a decommissioning plan, which includes financial assurance, removal of PV modules and accompanying equipment, and remediation of the land, if necessary. This new regulation will allow the Department to have knowledge of existing facilities and establishes a framework with which to manage end-of-life PV modules and energy storage system batteries.

Document No. 5200  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
CHAPTER 30  
Statutory Authority: 1976 Code Sections 48-39-10 et seq.

- 30-1. Statement of Policy.
- 30-2. Applying for a Permit.
- 30-11. General Guidelines for All Critical Areas.
- 30-13. Specific Project Standards for Beaches and the Beach/Dune System.
- 30-15. Activities Allowed Seaward of the Baseline.

### Synopsis:

South Carolina’s beachfront policies and jurisdictional authorities are established under the South Carolina Beachfront Management Act (S.C. Code Sections 48-39-250 et seq.). Over the past three decades, these rules

have guided where and how areas along the state’s beachfront can be developed. In 2018, Act 173 amended the Beachfront Management Act to replace the state’s 40-year policy of retreat with a policy of beach preservation. However, Coastal Division regulations currently lack specific guidance to effectively implement the new policy. In 2022, the Department of Health and Environmental Control (“Department”) convened the Beach Preservation Stakeholder Workgroup (“Workgroup”), which represented a wide range of backgrounds and constituencies, to provide input and diverse perspectives on beach preservation in South Carolina. The Workgroup’s recommendations and key findings were the primary basis for developing the proposed amendments to R.30-1, R.30-2, R.30-11.D, R.30-13, and R.30-15.H to establish a regulatory definition for beaches and beach preservation, provide for a process and standards to permit pilot projects proposed within the beaches or beach/dune system critical areas, provide for consistency in the application of standards for activities across beaches and beach/dune system critical areas, and to clarify regulations related to emergency orders and the use of sandbags seaward of the baseline. The proposed amendments will provide clarity for the regulated community, guidance for regulatory staff, and allow the Department to more effectively implement the state’s beach preservation policy. The proposed amendments also include corrections for clarity and readability, grammar, punctuation, codification, and other such regulatory text improvements. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

The Department had a Notice of Drafting published in the February 24, 2023, South Carolina State Register.

Changes made at the request of the Senate Agriculture and Natural Resources Committee by letter dated April 16, 2024:

R.30-1.D(5) Add definition for beaches to match statutory definition.

R.30-1.D(7) Add language to beach preservation definition to clarify that beach preservation supports storm protection of public and private property and includes utilization of engineered solutions that support preservation of the beaches and the beach/dune system, as permitted by statute and regulation.

R.30-11.D(1) Add language to include references to statutory and regulatory definitions of beaches and beach/dune system critical areas.

R.30-11.D(2) Add language to clarify that in many instances erosion control devices adjacent to the beach have contributed to the deterioration and loss of the dry sand beach. Add language to reference statutory requirements associated with erosion control structures. Remove language clarifying activities that do not support beach preservation.

R.30-13.H(2)(a) Remove ‘wood-like’ language associated with approved construction materials for small wooden decks.

R.30-13.O(1)(a) Remove ‘wood-like’ language associated with approved construction materials for walkways over dunes.

R.30-13.S(1) Add language to clarify that in many instances erosion control devices adjacent to the beach have contributed to the deterioration and loss of the dry sand beach.

R.30-15.H Add language to allow the use of emergency orders when erosion is beyond twenty feet of a structure, when extenuating circumstances exist.

R.30-15.H(3)(a) Add language to require applicants to provide information to the Department demonstrating sandbags are specifically manufactured to be used in a coastal environment and include factors for consideration. Add language to specify that this requirement applies one year from the effective date of these regulations.

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R.30-15.H(3)(b) Add language to clarify that sandbags shall be a maximum size of approximately one cubic yard.

R.30-15.H(3)(d) Add language to specify that the toe of sandbags shall not be buried during installation and to specify that sandbags shall not be buried or covered with sand from non-natural processes, including sand scraping or renourishment.

R.30-15.H(3)(h) Add language to allow sandbags to remain in place for the duration of the emergency order process if they become buried or partially buried through natural processes, provided that the bags have been surveyed and documentation has been provided to the Department.

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

Section	Type of Change	Purpose
R.30-1.C(5)(a)-(c)	Technical Correction	Stylistic amendment to correct tabbed indentation.
R.30-1.C(6)	Revision	Amend language to reference the state's current policy of beach preservation and to clarify reference to the Coastal Zone Management Act.
R.30-1.D(1)	Technical Correction	Amend to correct punctuation.
R.30-1.D(3)	Technical Correction	Amend to correct punctuation.
R.30-1.D(4)(a)	Technical Correction	Amend to correct punctuation.
R.30-1.D(4)(b)	Revision, Technical Correction	Amend language to reference the state's current policy of beach preservation, amend for stylistic clarity, and to correct punctuation and spelling.
R.30-1.D(4)(c)	Technical Correction	Amend to correct punctuation.
R.30-1.D(5)	Addition	Add new definition 5 for beaches to match statutory definition.
R.30-1.D(5)	Technical Correction	Renumber definition 5 after addition of new beaches definition and amend for Code reference and stylistic clarity.
R.30-1.D(7)	Addition	Add new definition 7 to clarify beach preservation characteristics.
R.30-1.D(6)-(13)	Technical Correction	Renumber definitions 6 through 13 after addition of new beach preservation definition.
New R.30-1.D(9)	Technical Correction	Amend to correct spelling.
New R.30-1.D(12)(a)-(b)	Technical Correction	Amend for stylistic clarity.
New R.30-1.D(13)	Technical Correction	Amend to correct punctuation.
R.30-1.D(14)	Deletion	Delete definition of Coastal Zone Management Appellate Panel to conform with statute.
R.30-1.D(15)-(554)	Technical Correction	Renumber definitions 15 through 54.
New R.30-1.D(16)	Technical Correction	Amend to correct punctuation.

New R.30-1.D(18)(a)-(c)	Technical Correction, Revision	Amend for stylistic clarity and to add clarifying article.
New R.30-1.D(20)(c)-(e)	Technical Correction	Amend for stylistic clarity.
New R.30-1.D(21)	Technical Correction, Revision	Amend for Code reference clarity and to correct punctuation.
New R.30-1.D(22)	Technical Correction, Revision	Amend for Code reference and stylistic clarity, and to correct wording.
New R.30-1.D(24)	Technical Correction	Amend to correct punctuation.
New R.30-1.D(25)	Technical Correction	Amend to correct punctuation.
New R.30-1.D(27)	Technical Correction	Amend for stylistic clarity.
New R.30-1.D(32)	Technical Correction	Amend for stylistic clarity.
New R.30-1.D(34)(c)-(d)	Technical Correction	Amend for stylistic clarity.
New R.30-1.D(36)	Technical Correction	Amend to correct punctuation.
New R.30-1.D(45)	Technical Correction	Amend for stylistic clarity.
New R.30-1.D(46)	Technical Correction	Amend to correct capitalization and punctuation.
New R.30-1.D(48)	Technical Correction	Amend for stylistic clarity.
New R.30-1.D(50)	Technical Correction	Amend for stylistic clarity.
New R.30-1.D(53)	Technical Correction	Amend to correct capitalization.
New R.30-1.D(55)	Technical Correction	Amend for stylistic clarity.
R.30-2.B(8)(a) and (b)	Reorganization, Technical Correction	Divide subsection into multiple items, amend to correct punctuation, spelling, and capitalization, and amend for Code reference clarity.
R.30-2.B(8)(c)	Addition	Add a third item to the subsection to reference additional required information for pilot project permit applications.
R.30-11.D	Revision, Technical Correction	Amend language to clarify that activities in beaches critical area are subject to applicable laws and policies and to conform with the title of R.30-11.D, General Guidelines for Beaches and the Beach/Dune System. Amend for Code reference clarity.
R.30-11.D(1)	Revision	Amend to include the beaches critical area to conform with the title of R.30-11.D and to reference the state's current policy of beach preservation.
R.30-11.D(2)	Revision	Amend to include statutory reference regarding impacts to the beach from hardened erosion control structures, to reference the state's current policy of beach preservation,

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		and to reference statutory requirements associated with erosion control structures.
R.30-11.D(5)	Revision, Technical Correction	Amend to clarify that beaches critical areas are susceptible to impacts from construction activities. Amend to correct punctuation and for Code reference clarity.
R.30-11.D(6)	Revision, Technical Correction	Amend to clarify that destruction of beach or dune vegetation within the beaches critical area is also prohibited. Amend to correct punctuation.
R.30-13.B	Revision	Amend language to clarify that the Department applies requirements for new habitable structures consistently within the beaches and beach/dune system critical areas and to conform with the title of R.30-13, Specific Project Standards for Beaches and the Beach/Dune System.
R.30-13.B(2)	Technical Correction	Amend for stylistic clarity.
R.30-13.B(4)	Technical Correction	Amend for Code reference clarity.
R.30-13.B(5)	Revision	Amend to clarify that the Department may authorize habitable structures seaward of the baseline under a special permit.
R.30-13.C	Revision	Amend language to clarify that the Department applies requirements for additions to habitable structures consistently within the beaches and beach/dune system critical areas and to conform with the title of R.30-13.
R.30-13.C(1)	Technical Correction	Amend for stylistic clarity.
R.30-13.C(4)	Revision	Amend language to clarify that the Department applies requirements for additions to habitable structures consistently within the beaches and beach/dune system critical areas and to conform with the title of R.30-13.
R.30-13.C(5)	Addition	Add new items to ensure that additions to habitable structures are not constructed on the primary oceanfront sand dune or on active beach and to clarify that the Department may authorize additions to habitable structures seaward of the baseline under a special permit.
R.30-13.D	Revision, Technical Correction	Amend language to clarify that the Department applies requirements for repair and renovation of habitable structures consistently within the beaches and beach/dune system critical areas, to ensure that habitable structures are not constructed on active beach, and to conform with the title of R.30-13. Amend to correct punctuation.
R.30-13.E	Revision, Technical Correction	Amend language to clarify that the Department applies requirements for replacement or rebuilding of habitable structures consistently within the beaches and beach/dune system critical areas, to conform with the title of R.30-13, and to clarify required notice and documentation to the Department. Amend to correct punctuation.
R.30-13.E(4)	Technical Correction	Amend to correct punctuation.
R.30-13.E(5)	Revision, Technical Revision	Amend to provide reference to implementing regulations associated with cited statutes and for Code reference clarity.

R.30-13.E(7)	Addition	Add new item to ensure that replacement habitable structures are not constructed on the primary oceanfront sand dune or on active beach.
R.30-13.F	Revision, Technical Correction	Amend language to clarify that the Department applies requirements for landscaping, earthmoving, and fill for landscaping consistently within the beaches and beach/dune system critical areas and to conform with the title of R.30-13. Amend to correct punctuation.
R.30-13.F(1)	Technical Correction	Amend to correct punctuation.
R.30-13.F(7)	Revision	Amend to ensure that landscaping, earthmoving, and fill for landscaping activities shall not occur on active beach and add clarifying article.
R.30-13.G	Revision	Amend language to clarify that the Department applies requirements for fences, lighting, trash receptacles, sidewalks, and signs consistently within the beaches and beach/dune system critical areas and to conform with the title of R.30-13.
R.30-13.G(2)	Technical Correction	Amend for stylistic clarity.
R.30-13.G(5)	Revision	Amend to add clarifying article.
R.30-13.D(6)	Revision	Amend to clarify that lighting within the beaches critical area shall be designed to shield the beach from illumination.
R.30-13.H	Revision, Technical Correction	Amend language to clarify that the Department applies requirements for emergency vehicle access ways, small wooden decks, gazebos, and other structures consistently within the beaches and beach/dune system critical areas and to conform with the title of R.30-13. Amend to correct punctuation.
R.30-13.H(1)(c)-(e)	Technical Correction, Revision	Amend to correct punctuation, for stylistic clarity, and to add clarifying article.
R.30-13.H(2)	Technical Correction	Amend to correct punctuation.
R.30-13.H(2)(a)	Revision	Amend criteria to allow Department-approved material to be used for small wooden decks and to conform to statute, and amend language to improve sentence structure.
R.30-13.H(2)(b)-(f)	Technical Correction	Amend to correct punctuation. Amend for stylistic clarity, to improve sentence structure, and to add clarifying article.
R.30-13.I	Revision	Amend language to clarify that the Department applies requirements for construction and/or repair of drives and parking lots consistently within the beaches and beach/dune system critical areas and to conform with the title of R.30-13.
R.30-13.I(7)	Technical Correction, Revision	Amend to correct punctuation and to add clarifying article.
R.30-13.I(8)	Revision, Technical Correction	Amend to clarify that no new driveways or parking lots shall be constructed seaward of the baseline without a special permit and to ensure that driveways and parking lots are not constructed on active beach. Amend for Code reference clarity.

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R.30-13.J	Revision	Amend language to clarify that the Department applies requirements for the installation or repair of underground and overhead water, sewer, gas, electrical, telephone lines, and cable service lines consistently within the beaches and beach/dune system critical areas and to conform with the title of R.30-13.
R.30-13.J(1)	Revision	Amend to ensure that service lines are not placed within active beach and provide an exception for subsea cables.
R.30-13.J(4)	Revision	Amend to add clarifying article.
R.30-13.K	Revision	Amend language to clarify that the Department applies requirements for drainage structures consistently within the beaches and beach/dune system critical areas and to conform with the title of R.30-13.
R.30-13.K(1)	Technical Correction	Amend to correct spelling, capitalization, and punctuation.
R.30-13.K(4)	Revision	Amend language to clarify that requirements of local drainage plans also apply within the beaches critical areas.
R.30-13.K(5)(a)	Revision	Amend to add clarifying article.
R.30-13.L	Revision, Technical Correction	Amend language to clarify that the Department applies requirements for sand fences, minor beach renourishment, and dune revegetation consistently within the beaches and beach/dune system critical areas and to conform with the title of R.30-13. Amend to add clarifying article and to correct punctuation.
R.30-13.L(1)(h)	Revision	Amend language to clarify that the Department evaluates impacts from sand fencing consistently within the beaches and beach/dune system critical areas and to conform with the title of R.30-13.
R.30-13.L(2)	Revision	Amend to correct spelling.
R.30-13.L(2)(a)	Revision	Amend language to generally refer to the Department's recommendations for planting dune vegetation.
R.30-13.M	Revision	Amend language to clarify that sand that has drifted out of the beaches and/or beach/dune system critical areas may be returned to them, to clarify that the Department applies requirements for returning sand consistently within the beaches and beach/dune system critical areas, and to conform with the title of R.30-13.
R.30-13.M(1)	Revision	Amend to add clarifying article.
R.30-13.N(2)(c)-(d)	Technical Correction, Revision	Amend to add clarifying article and correct punctuation.
R.30-13.N(3)	Technical Correction	Amend to correct punctuation.
R.30-13.N(3)(a)	Revision	Amend language to clarify that the Department applies restrictions for erosion control structures consistently within the beaches and beach/dune system critical areas and to conform with the title of R.30-13.
R.30-13.N(3)(c)-(d)	Technical Correction	Amend to correct punctuation and for Code reference clarity.
R.30-13.N(3)(e)(i)-(iii)	Technical Correction	Amend for stylistic clarity.

R.30-13.O(1), (1)(a)-(c)	Revision, Technical Correction	Amend for code reference clarity. Amend criteria to allow Department-approved material to be used for walkways over dunes and to conform to statute. Amend for stylistic clarity.
R.30-13.O(1)(f)-(h)	Technical Correction, Revision	Amend for stylistic clarity, to correct punctuation, to add clarifying article, and to correct wording.
R.30-13.O(2)(a)	Technical Correction	Amend to correct spelling.
R.30-13.P	Technical Correction, Revision	Amend to correct punctuation, for Code reference clarity, and to correct wording.
R.30-13.Q(1)	Technical Correction	Amend to correct punctuation and for Code reference clarity.
R.30-13.Q(2)(c)	Revision	Amend language to clarify that the Department applies requirements for lighting associated with golf courses consistently within the beaches and beach/dune system critical areas and to conform with the title of R.30-13.
R.30-13.Q(2)(d)(iii)	Technical Correction	Amend to correct punctuation and to add clarifying article.
R.30-13.R(2)(b)	Technical Correction	Amend to correct punctuation.
R.30-13.S	Addition	Add section to include specific project standards for pilot projects within the beaches and beach/dune system critical areas.
R.30-13.S(1)	Addition	Add subsection to clarify the intended purpose of pilot projects, specify that new erosion control structures or devices will not be permitted as part of a pilot project, and reference supporting statutory language.
R.30-13.S(2)	Addition	Add subsection to list additional requirements for pilot project permit applications.
R.30-13.S(3)	Addition	Add subsection to list the standards which shall apply to permitted pilot projects.
R.30-13.S(4)	Addition	Add subsection to specify information the pilot project permittee must submit to the Department in a final report upon completion of the pilot project, and to clarify Departmental considerations of the study findings and the final report.
R.30-15.H	Revision, Technical Correction	Add language to allow the use of emergency orders when erosion is beyond twenty feet of a structure, when extenuating circumstances exist. Amend for stylistic clarity.
R.30-15.H(1)	Technical Correction	Amend for Code reference clarity.
R.30-15.H(2)(b)-(d)	Technical Correction	Amend for stylistic clarity.
R.30-15.H(2)(d)(i)-(iii)	Technical Correction	Amend for stylistic clarity.
R.30-15.H(3)(a)	Revision	Add language to require applicants to provide information to the Department demonstrating sandbags are specifically manufactured to be used in a coastal environment and include factors for consideration. Add language to specify



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		that this requirement applies one year from the effective date of these regulations.
R.30-15.H(3)(b)	Revision	Add language to clarify that sandbags shall be a maximum size of approximately one cubic yard.
R.30-15.H(3)(d)	Revision	Add language to specify that the toe of sandbags shall not be buried during installation and to specify that sandbags shall not be buried or covered with sand from non-natural processes, including sand scraping or renourishment.
R.30-15.H(3)(e)	Technical Correction	Amend for stylistic clarity.
R.30-15.H(3)(h)	Revision	Add language to allow sandbags to remain in place for the duration of the emergency order process if they become buried or partially buried through natural processes, provided that the bags have been surveyed and documentation has been provided to the Department.
R.30-15.H(4)	Technical Correction	Amend for Code reference clarity.
R.30-15.H(4)(a), (c)-(d), and (f)	Technical Correction	Amend for stylistic clarity.
R.30-15.H(5)	Technical Correction	Amend for Code reference clarity.

### Text:

## CHAPTER 30 DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL – COASTAL DIVISION

(Statutory Authority: S.C. Code Section 48-39-10 et seq.)

### R.30-1. Statement of Policy.

#### Amend R.30-1.C(5) and (6) to read:

(5) There are three basic approaches to beachfront management:

- (a) armor the beach with hard erosion control devices;
- (b) renourish the beach with sand;
- (c) retreat from the beach.

(6) The 1977 Coastal Zone Management Act, as amended, rejects construction of new erosion control devices and adopts a state policy of beach preservation, including restoration of the beaches of our state. The Department, as steward of the State's coastal resources, has the responsibility to implement the policy of beach preservation by designating a baseline and setback line on all oceanfront properties of the State, developing a long-range comprehensive state plan for management of the beach and dune resources, and supporting the efforts of local governments in developing local long-range beach management plans. In addition, the Department shall require property owners to move new construction and reconstruction as far landward as possible, to limit the size of structures within the constraints of the Coastal Zone Management Act, and to seek innovative ways to ameliorate the effects of beach erosion.

#### Amend R.30-1.D to read:

## D. Definitions:

(1) Abandoned Vessels/Structures - Any boat, barge, dock, pier, or other structure/vessel in the critical areas that is no longer functional for its primary, intended purpose and for which repair or salvage activity is not actively being pursued.

(2) Active Beach - the area seaward of the escarpment or the first line of stable natural vegetation, whichever first occurs, measured from the ocean landward.

(3) Administrative Law Judge - a judge appointed pursuant to S.C. Code Ann. Section 1-23-510 (1976) (as amended) who is assigned a particular matter by the Chief Administrative Law Judge, or if no administrative law judge has been assigned for a particular matter, the Chief Administrative Law Judge.

## (4) Baselines:

(a) Within a standard erosion zone, the baseline is established at the location of the crest of the primary oceanfront sand dune in that zone. In a standard erosion zone in which the shoreline has been altered naturally or artificially by the construction of erosion control devices, groins, or other man-made alterations, the baselines must be established by the Department using the best scientific and historical data, as where the crest of the primary ocean front sand dune for that zone would be located if the shoreline had not been altered.

(b) Within an unstabilized inlet zone, the baseline must be determined by the Department as the most landward point of erosion at any time during the past forty (40) years, unless the best available scientific and historical data of the inlet and adjacent beaches indicate that the shoreline is unlikely to return to its former position. In collecting and utilizing the best scientific and historical data available for the implementation of the policy of beach preservation, the Department, as part of the State Comprehensive Beach Management Plan provided for in this chapter, among other factors, must consider: historical inlet migration, inlet stability, channel and ebb tidal delta changes, the effects of sediment bypassing on shorelines adjacent to the inlets, and the effects of nearby beach restoration projects on inlet sediment budgets.

(c) Within a stabilized inlet zone, the baseline location must be determined in the same manner as provided for in a standard erosion zone. However, the actual location of the crest of the primary oceanfront sand dune of that erosion zone is the baseline of that zone, not the location if the inlet had remained unstabilized.

(5) Beaches - those lands subject to periodic inundation by tidal and wave action so that no nonlittoral vegetation is established.

(6) Beach/Dune System - all land from the mean high-water mark of the Atlantic Ocean landward to the forty (40)-year setback line described in S.C. Code Section 48-39-280.

(7) Beach Preservation - maintaining the natural processes and functionality and benefits of the beaches and the beach/dune system critical areas that support storm protection of public and private property, habitat, tourism, public access, recreation opportunities, and aesthetics. Beach preservation includes the utilization of engineered solutions, as permitted by the S.C. Code Ann. 48-39-10 et seq. and these regulations, that support these processes, functionality, and benefits.

(8) Best Management Practices - measures to reduce adverse environmental impacts.

(9) Boat - A vessel or watercraft of any type or size specifically designed to be self-propelled, whether by engine, sail, paddle, or other means, which is used to travel from place to place by water.

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(10) Boat Storage Structure - any structure associated with a dock that is used for the purpose of storing a boat out of the water and may include, but is not limited to, boatlifts, davits, and any other type of floating vessel platform. A boat storage structure is not a fixed pierhead, walkway, ramp, or gangway.

(11) Boat Yard - a facility where boats are repaired.

(12) Bridge:

(a) Non-vehicular - bridges designed for use by pedestrians, golf carts or other maintenance vehicles, but not cars and trucks; are not docks; and can have a maximum clear width on the deck surface of six (6) feet.

(b) Vehicular - bridges with a clear width on the deck surface of over six (6) feet and designed to support traffic by cars and trucks.

(13) Coastal Island - an area of high ground above the critical area delineation that is separated from other high ground areas by coastal tidelands or waters. An island connected to the mainland or other island only by a causeway is also considered a coastal island. The purpose of this definition is to include all islands except those that are essentially mainland, i.e., those that already have publicly accessible bridges and/or causeways. The following islands shall not be deemed a coastal island subject to this section due to their large size and developed nature: Waites Island in Horry County; Pawleys Island in Georgetown County; Isle of Palms, Sullivans Island, Folly Island, Kiawah Island, Seabrook Island, Edisto Island, Johns Island, James Island, Woodville Island, Slann Island, and Wadmalaw Island in Charleston County; Daniel Island in Berkeley County; Edisto Beach in Colleton County; Harbor Island, Hunting Island, Fripp Island, Hilton Head Island, St. Helena Island, Port Royal Island, Ladies Island, Spring Island, and Parris Island in Beaufort County.

(14) Coastal Waters - the navigable waters of the United States subject to the ebb and flood of the tide and which are saline waters, shoreward to their mean high-water mark.

(15) Coastal Zone - all coastal waters and submerged lands seaward to the State's jurisdictional limits and all lands and waters in the counties of the State which contain any one or more of the critical areas. These counties are Beaufort, Berkeley, Charleston, Colleton, Dorchester, Horry, Jasper, and Georgetown.

(16) Critical Areas - any of the following: (1) coastal waters, (2) tidelands, (3) beach/dune systems, and (4) beaches.

(17) Department - the South Carolina Department of Health and Environmental Control (also referred to as SCDHEC).

(18) Destroyed Beyond Repair:

(a) Habitable Structures - destroyed beyond repair means more than sixty-six and two-thirds ( $66 \frac{2}{3}$ ) percent of the replacement value of the habitable structure has been destroyed. See R.30-14(D)(3)(a).

(b) Pools - destroyed beyond repair means more than sixty-six and two-thirds ( $66 \frac{2}{3}$ ) percent of the replacement value of the pool has been destroyed. See R.30-14(D)(3)(b).

(c) Seawalls and Bulkheads - damage to seawalls and bulkheads must be judged on the percentage of the structure remaining intact at the time of the damage assessment. Erosion control structures or devices must not be repaired or replaced if destroyed:

(i) more than eighty (80) percent above grade through June 30, 1995;

(ii) more than sixty-six and two-thirds (66 2/3) percent above grade from July 1, 1995, through June 30, 2005; or

(iii) more than fifty (50) percent above grade after June 30, 2005. See R.30-14(D)(3)(c).

(d) Revetments - must be judged on the extent of displacement of the stone, effort to return this stone to the pre-storm event configuration of the structure or device, and the ability of the revetment to retain backfill material at the time of the damage assessment. See R.30-14(D)(3)(d).

(19) Division - the Administrative Law Judge Division.

(20) Dock - All docks defined herein refer to structures that provide docking space for ten (10) boats or less.

(a) Boat Storage Dock - a floating structure that a vessel is parked on for purposes of out-of-water storage.

(b) Commercial Dock - a docking facility used for commercial purposes. A commercial dock is not necessarily a marina, a boat yard, or a dry storage facility.

(c) Community Dock - any docking facility that provides access for more than four (4) families, has effective docking space of no more than two hundred fifty (250) linear feet and is not a marina. Effective docking space means adequate length and water depth to dock a twenty (20)-foot boat.

(d) Joint use dock - any private dock intended for the use of two to four (2-4) families.

(e) Private Dock - any facility that provides access for one (1) family, and is not a marina.

(21) Emergency Orders - orders issued in response to an emergency as defined in S.C. Code Section 48-39-10(U), by the Department, or upon written notification to the Department by an appointed official of a county or municipality or of the state acting to protect the public health and safety. With regard to the beach/dune critical area, only the use of sandbags, sand scraping, renourishment, or a combination of them, in accordance with R.30-5 and R.30-15.H, is allowed pursuant to emergency orders.

(22) Emergency Repairs - repairs due to emergencies as defined in S.C. Code Section 48-39-10(U) to an existing bank, dike, fishing pier, or structure other than ocean front erosion control structures or devices which have been erected in accordance with federal and state laws or provided for by general law or acts passed by the General Assembly, if notice is given in writing to the Department within seventy-two (72) hours of the onset of the needed repair.

(23) Erosion Control Structures and Beach Renourishment:

(a) Seawall - a special type of retaining wall that is specifically designed to withstand wave forces.

(b) Bulkhead - a retaining wall designed to retain fill material, but not to withstand wave forces on an exposed shoreline.

(c) Revetment - a sloping structure built along an escarpment or in front of a bulkhead to protect the shoreline or bulkhead from erosion.

(d) Beach Renourishment - the artificial establishment and periodic renourishment of a beach with sand that is compatible with the beach in such a way as to create a dry sand beach at all stages of the tide and/or provide some level of storm protection.

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(24) Feasible (feasibility) - As used within these rules and regulations (e.g., "unless no feasible alternative exists"), feasibility is determined by the Department with respect to individual project proposals. Feasibility in each case is based on the best available information, including, but not limited to, technical input from relevant agencies with expertise in the subject area, and consideration of factors of environmental, economic, social, legal, and technological suitability of the proposed activity and its alternatives. Use of this word includes, but is not limited to, the concept of reasonableness and likelihood of success in achieving the project goal or purpose. "Feasible alternatives" applies both to locations or sites and to methods of design or construction, and includes a "no action" alternative.

(25) GAPC (Geographic Areas of Particular Concern) - areas within South Carolina's coastal zone which have been identified in the State's Coastal Management Program as being of such importance as to merit special consideration during the Department review of permit applications. GAPCs consist of: (1) areas of unique natural resource value; (2) areas where activities, development, or facilities depend on proximity to coastal waters, in terms of use or access; and (3) areas of special historical, archeological, or cultural significance.

(26) Garage - a structure built and used for the purpose of parking and protecting vehicles. The structure may be open or enclosed. An open parking area under a habitable structure will not be counted when computing the square footage of a habitable structure.

(27) Groin - a structure designed to stabilize a beach by trapping littoral drift. Groins are usually perpendicular to the shore and extend from the shoreline into the water far enough to accomplish their purpose. Groins are narrow and vary in length from less than one hundred (100) feet to several hundred feet. Groin fields are a series of two (2) or more groins which, because of their proximity to each other, have overlapping areas of influence. Consequently, the entire groin field must be considered as one system in order to accurately analyze beach response. The following is a list of the existing groins and groin fields in South Carolina as of 1991.

### LIST OF EXISTING GROINS AND GROIN FIELDS IN SOUTH CAROLINA AS OF 1991

#### **Garden City:**

1. Six (6) groins south of the intersection of Yucca Street and Waccamaw Drive.
2. Two (2) groins south of the intersection of Dolphin Street and Waccamaw Drive.

#### **Pawleys Island:**

3. Twenty-three (23) groins along an area south of the northern causeway.
4. One (1) groin at the north end of the Island.

#### **Isle of Palms:**

5. One (1) groin at the north end of the Island along Dewees Inlet.
6. Two (2) groins at 42nd and 44th Avenues.

#### **Sullivans Island:**

7. Six (6) groins adjacent to Breach Inlet.

#### **Folly Beach:**

8. Forty-seven (47) groins.

#### **Edisto Island:**

9. Thirty-two (32) groins from the State Park south to Mikell Street.
10. Two (2) groins at Louise and Bailey Streets, along the South Edisto River.

#### **Hunting Island:**

11. One (1) groin at the north end of the Island.

**Fripp Island:**

12. One (1) groin at the north end of the Island.
13. Five (5) groins along the southern end of the Island.

**Hilton Head Island:**

14. Seventeen (17) groins in an area adjacent to Port Royal Sound.
15. Two (2) groins at the north end of Forest Beach, north of Yucca Drive.
16. Three (3) groins at Braddock Point, northwest of Merganser Court.
17. One (1) groin at Land's End, adjacent to Braddock Cove.

(28) Habitable Structure - a structure suitable for human habitation including, but not limited to, single or multi-family residences, hotels, condominium buildings, and buildings for commercial purposes. Each building of a condominium regime is considered a separate habitable structure, but if a building is divided into apartments, then the entire building, not the individual apartment is considered a single habitable structure. Additionally, a habitable structure includes porches, gazebos, and other attached improvements.

(29) Inlet Erosion Zone - a segment of shoreline along or adjacent to tidal inlets which is directly influenced by the inlet and its associated shoals.

- (a) Unstabilized Inlets - inlets that have not been stabilized by jetties, terminal groins, or other structures.
- (b) Stabilized Inlets - inlets which are stabilized by jetties, terminal groins, or other structures.

(30) Jetty - a structure that extends into the water to direct and confine river or tidal flow into a channel and to prevent or reduce shoaling of the channel by littoral material. Jetties are constructed for the purpose of stabilizing navigation channels.

(31) Joint Public Notice - a permit application public notice issued jointly between the Department and the United States Army Corps of Engineers or other agency and processed independently by the Department.

(32) Living Shoreline - A shoreline stabilization approach utilized in intertidal wetland environments that maintains, restores, and/or enhances natural estuarine processes through the strategic placement of native vegetation and/or use of green infrastructure as described in R.30-12.Q. Living shorelines promote wetland resiliency and water quality, and enhance the diverse intertidal habitat.

(33) Major Development Activity - any construction activity that is not a Minor Development Activity.

(34) Marinas - a marina is any of the following:

- (a) locked harbor facility;
- (b) any facility which provides fueling, pump-out, maintenance or repair services (regardless of length);
- (c) any facility which has effective docking space of greater than two hundred fifty (250) linear feet or provides moorage for more than ten (10) boats;
- (d) any water area with a structure which is used for docking or otherwise mooring vessels and constructed to provide temporary or permanent docking space for more than ten (10) boats, such as a mooring field; or
- (e) a dry stack facility.

(35) Master Plan - a document or a map prepared by a developer or a city as a policy guide to decisions about the physical development of the project or community.

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(36) Minor Development Activity - the construction, maintenance, repair, or alteration of any private pier or erosion control structure, the construction of which does not involve dredging.

(37) Nonwater-dependent - a facility which cannot demonstrate that dependence on, use of, or access to coastal waters is essential to the functioning of its primary activity.

(38) Normal Maintenance and Repair - work performed on any structure within the critical area as part of a routine and ongoing program to maintain the integrity of the structure provided that the structure is still generally intact and functional in its present condition and the work only extends to the original dimensions of the structure. See R.30-5(D).

(39) OCRM - the South Carolina Department of Health and Environmental Control's Office of Ocean and Coastal Resource Management.

(40) Offshore Breakwater - a structure which is designed to protect an area from wave action, is generally built parallel to the shore, may or may not be submerged, and may be built singly or in series. Breakwaters may interfere with natural wave action and wave induced currents.

(41) Party - each person or agency named or admitted as a party or properly seeking and entitled to be admitted as a party, including a license or permit applicant.

(42) Planned Development - a development plan which has received local approval for a specified number of dwelling and other units. The siting and size of structures and amenities are specified or restricted within the approval. This term specifically references multi-family or commercial projects not otherwise referenced by the terms master plan or planned unit development.

(43) Planned Unit Development - a residential, commercial, or industrial development, or all three, designed as a unit and approved in writing by local government.

(44) Pool - a structure designed and used for swimming and wading.

(45) Primary Oceanfront Sand Dunes - those dunes that constitute the front row of dunes adjacent to the Atlantic Ocean. For the purposes of establishing the jurisdictional baseline, the dune must have a minimum height of thirty-six (36) inches, as measured vertically from the seaward toe to the crest of the dune. The dune must also form a nearly continuous dune ridge for five hundred (500) shore parallel feet and may exhibit minimal breaks such as those resulting from pedestrian or emergency vehicle access points. This dune typically exhibits the presence of stable, native vegetation, and is not scarped, eroded, or overtopped by the highest predicted astronomical tides. However, this dune may be inundated by storm surge which normally accompanies major coastal storm events.

(46) Public Interest - As used within these rules and regulations, public interest refers to the beneficial and adverse impacts and effects of a project upon members of the general public, especially residents of South Carolina who are not the owners and/or developers of the project. To the extent that, in the opinion of the Department, the value of such public benefits is greater than the public costs embodied in adverse environmental, economic, and fiscal effects, a proposed project may be credited with net public benefits.

(47) Setback Area - the area located between the setback line and the baseline.

(48) Setback Line - the line landward of the baseline that is established at a distance which is forty (40) times the average annual erosion rate as determined by historical and other scientific means and adopted by the Department in the State Comprehensive Beach Management Plan. However, all setback lines shall be established no less than twenty (20) feet landward of the baseline, even in cases where the shoreline has been stable or has experienced net accretion over the past forty (40) years.

(49) Significant Dune - A dune located completely seaward of the setback line, which because of its size and/or location is necessary to protect the beach/dune system of which it is a part.

(50) Special Geographic Circumstances - physical characteristics and land uses of surrounding uplands and waters may warrant additional consideration toward dock sizes. Special Geographic Circumstances identified by OCRM include: tidal ranges of greater than six (6) feet; lots with greater than five hundred (500) feet of water frontage; and no potential access via dockage from the opposite side of the creek. At the discretion of Department staff, one or more of these circumstances may be applied to dock applications, which may allow up to an additional fifty (50) percent to what is allowed in R.30-12.A(2)(c).

(51) Standard Erosion Zone - a segment of shoreline which is subject to essentially the same set of coastal processes, has a fairly constant range of profiles and sediment characteristics, and is not directly influenced by tidal inlets or associated inlet shoals.

(52) Tidelands - all areas which are at or below mean high tide and coastal wetlands, mudflats, and similar areas that are contiguous or adjacent to coastal waters and are an integral part of the estuarine systems involved. Coastal wetlands include marshes, mudflats, and shallows and means those areas periodically inundated by saline waters whether or not the saline waters reach the area naturally or through artificial water courses and those areas that are normally characterized by the prevalence of saline water vegetation capable of growth and reproduction. Provided, however, nothing in this definition shall apply to wetland areas that are not an integral part of an estuarine system. Further, until such time as the exact geographic extent of this definition can be scientifically determined, the Department shall have the authority to designate its approximate geographic extent.

(53) Transmittal Form - the official form prepared by the agency with subject matter jurisdiction that is filed with the Division notifying it of a request by any person for a contested case hearing.

(54) Water-dependent - a facility which can demonstrate that dependence on, use of, or access to coastal waters is essential to the functioning of its primary activity.

(55) Waterfront property - For purposes of these regulations, waterfront property will generally be defined as upland sites where a straight-line extension of both, generally shore perpendicular, upland property lines reaches a navigable watercourse within one thousand (1,000) feet of the marsh critical line. Waterfront property may also be identified via an approved dock master plan where designated corridors differing from upland property line extensions are delineated.

### **R.30-2. Applying for a Permit.**

#### **Amend R.30-2.B(8) to read:**

(8) When considered appropriate by the Department, additional information may be required.

(a) For major development activities this additional information may include, but is not limited to, a Stormwater Management Plan, approved freshwater wetland delineation, and cultural resource and endangered species survey.

(b) The plat or copy of a plat submitted for those activities subject to the Beachfront Management Act (S.C. Code Sections 48-39-270 through 350) shall show the location of the baseline and setback line, applicable to the subject property. The lines shall be derived from information available from the Department. The lines shall be part of the plat and sealed by a South Carolina Registered Land Surveyor and may not be placed on the application by anyone other than a South Carolina Registered Land Surveyor or a member of the Department staff.



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(c) For pilot project permit applications, additional required information is set forth in R.30-13.S.

### **R.30-11. General Guidelines for All Critical Areas.**

#### **Amend R.30-11.D to read:**

D. General Guidelines for Beaches and the Beach/Dune System: In addition to the provisions of the South Carolina Coastal Management Act of 1977, the policies of the South Carolina Coastal Management Program, and applicable rules and regulations, the Department shall base its decisions on activities in the beaches and beach/dune system critical areas on the findings and policies specified in S.C. Code Section 48-39-250 and Section 48-39-260 of the 1977 Coastal Zone Management Act, as amended, and the following:

(1) The Department shall discourage new construction in the beaches and beach/dune system critical areas and encourage beach preservation to maintain the natural processes and functionality and benefits of the beaches and the beach/dune system critical areas as defined in R.30-1(D) and S.C. Code Section 48-39-10.

(2) According to S.C. Code Section 48-39-250, the use of armoring in the form of hard erosion control devices to protect erosion-threatened structures adjacent to the beach has not proven effective and, in many instances, contributes to the deterioration and loss of the dry sand beach. The Department shall promote soft-solutions to erosion within the context of a policy of beach preservation and prevent the strengthening, enlargement and/or rebuilding of existing erosion control structures. Erosion control structures may be repaired if not destroyed more than the percentage allowed in S.C. Code Section 48-39-290(B)(2)(b)(iii). Repairs must be made with materials similar to those of the structure or device being repaired.

(3) The Department shall promote public access to the beaches of this state.

(4) The Department shall consider state and local comprehensive plans. No permit shall be issued which is inconsistent with the state plan, and all permits issued shall be consistent with local plans to the maximum extent practicable.

(5) The Department shall be guided by the prohibitions against construction contained in S.C. Code Section 48-39-290 and Section 48-39-300 which are based upon the conclusion that ill-planned development, whether habitable structures, recreational amenities, erosion control devices, or other manmade structures, will now and in the future adversely impact the fragile beaches and beach/dune system critical areas. These structures interfere with the natural system and impact the highest and best uses of the system. In order to protect the highest and best uses of the beaches and beach/dune system critical areas, the Department, in its management capacity, shall encourage minimal development therein.

(6) The destruction of beach or dune vegetation within the beaches and/or beach/dune system critical areas is prohibited unless there is no feasible alternative. When there is destruction of vegetation permitted seaward of the setback line, mitigation, in the form of planting new vegetation to rectify the destruction, is required as a permit condition. In no event shall any part of a building be constructed on a primary oceanfront sand dune.

#### **Amend R.30-13. Specific Project Standards for Beaches and the Beach/Dune System, to read:**

A. Normal Maintenance and Repair of Habitable Structures: Normal maintenance and repair of habitable structures is allowed without notice to the Department. See R.30-5(A)(10) and R.30-1(D)(33).

B. Construction of New Habitable Structures: If any part of a new habitable structure is constructed within the beaches and/or beach/dune system critical areas, the owner shall certify to the Department that construction meets the following requirements:

(1) The structure is located as far landward on the property as practicable.

(2) That portion(s) of the habitable structure seaward of the setback line is no larger than five thousand (5,000) square feet of heated space.

(3) A drawing has been submitted to the Department showing a footprint of the structure on the property, a cross section of the structure, and the structure's relation to property lines and setback lines which affect the property.

(4) No erosion control structure or device is incorporated as an integral part of the habitable structure pursuant to S.C. Code Section 48-39-290.

(5) No part of the building is being constructed on the primary oceanfront sand dune or on the active beach. The Department may grant a special permit to construct a habitable structure seaward of the baseline pursuant to R.30-15.

(6) When required, all mitigation meets the standards of the Mitigation Policy adopted as part of the State Beachfront Management Plan.

C. Additions to Habitable Structures: Additions located wholly or partially within the beaches and/or beach/dune system critical areas are only allowed provided the following requirements are met:

(1) The additions together with the existing structure do not exceed five thousand (5,000) square feet of heated space seaward of the setback line.

(2) Additions to habitable structures comply with the conditions of new habitable structures as set forth in R.30-13(B).

(3) The additions must be located no farther seaward than the existing structure, i.e. must be landward or upward of the existing structure. The linear footage of the structure, parallel to the coast, cannot be increased.

(4) Additions constructed totally landward of the beaches and beach/dune system critical areas do not require any notice to the Department.

(5) No part of the building is being constructed on the primary oceanfront sand dune or on active beach. The Department may grant a special permit to make additions to a habitable structure seaward of the baseline pursuant to R.30-15.

D. Repair and Renovation of Habitable Structures: Repair and renovation of a habitable structure located wholly or partially within the beaches and/or beach/dune system critical areas, damaged but not destroyed beyond repair due to natural or man-made causes, is allowed after notice and written documentation to the Department, provided no construction is on active beach.

E. Replacement or Rebuilding of Habitable Structures: A habitable structure located wholly or partially within the beaches and/or beach/dune system critical areas, which has been destroyed beyond repair due to natural causes, may be replaced or rebuilt provided all of the following requirements are met and after notice and written documentation to the Department:

(1) The total square footage of the replaced structure seaward of the setback line does not exceed the total square footage of the original structure seaward of the setback line.

(2) The linear footage of the replaced structure parallel to the coast does not exceed the original linear footage parallel to the coast.

(3) The replaced structure is no farther seaward than the original structure.

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(4) Where possible, the replaced structure is moved landward of the setback line or, if not possible, then as far landward as practicable, considering local zoning and parking regulations.

(5) The reconstruction is not seaward of the baseline unless permitted elsewhere in S.C. Code Section 48-39-250 through 48-39-360 and the implementing regulations.

(6) Replacement of a habitable structure destroyed beyond repair due to man-made causes is allowed provided the rebuilt structure is no larger than the original structure it replaces and is constructed as far landward as possible, but the new structure must not be farther seaward than the original structure.

(7) No part of the building is constructed on the primary oceanfront sand dune or on active beach.

F. Landscaping, Earthmoving, and Fill for Landscaping: Within the beaches and/or beach/dune system critical areas, the installation of materials and associated amenities, moving of earth and placing of fill to accomplish these installations are allowed provided all of the following requirements are met:

(1) A comprehensive landscaping plan is submitted to and approved in writing by the Department;

(2) The construction of a retaining wall which extends below existing grade will not be allowed;

(3) No sand from the beach shall be used as backfill;

(4) No native plant material growing on the frontal dunes may be disturbed unless it can be demonstrated that the condition of the dune will be improved;

(5) Only native salt tolerant plant species may be planted on dunes and shall be approved by the Department staff;

(6) Adequate measures shall be taken to contain fill and irrigation runoff;

(7) Construction shall not alter or impact existing primary oceanfront sand dunes and shall not occur on active beach; and

(8) All work shall be in compliance with applicable local ordinances.

G. Fences, Lighting, Trash Receptacles, Sidewalks, and Signs. Within the beaches and/or beach/dune system critical areas, the placement, maintenance and repair, and replacement of fences, lighting, trash receptacles, sidewalks, and signs are allowed provided all of the following requirements are met:

(1) Construction shall not alter or impact existing sand dunes, dune vegetation, or the beach;

(2) New sidewalks may not exceed six (6) feet in width. New residential or private sidewalks must be constructed of wood. Existing concrete sidewalks attendant to public streets may be replaced within their original footprint;

(3) Trash receptacles (not dumpsters) may be attached to access ways or placed on the beach when the local government determines there is a need for such receptacles;

(4) Signs are limited to only those attached to attendant structures or mail receptacles or informational signs deemed necessary by federal, state, or local government for public health and safety. Advertisements are not allowed except on the walls or roofs of commercial structures;

(5) No fence may be used as a retaining wall; and

(6) Any additional lighting within the beaches and/or beach dune system critical areas shall be designed to shield the beach from illumination.

H. Emergency Vehicle Access Ways, Small Wooden Decks, Gazebos, and Other Structures Which Enhance Beach Access. Within the beaches and/or beach/dune system critical areas, the placement, maintenance and repair, and replacement of emergency vehicle access ways, decks, gazebos, and other structures which enhance beach access are allowed provided all of the following requirements are met:

(1) Emergency vehicle access ways shall:

(a) Be constructed at sites which preclude alteration of existing sand dunes and dune vegetation to the maximum extent practicable;

(b) Be constructed above the existing grade except for points of entry and exit;

(c) Be constructed of wood or other approved material;

(d) Be located at least one-half (1/2) mile from any other vehicle access to the beach unless, after review by the Department, this provision is determined to be unreasonable due to site-specific circumstances concerning health and safety needs;

(e) Be approved by the local government with jurisdiction; and

(f) Provide for pedestrian access use.

(2) Small wooden decks are allowed provided the following criteria are met:

(a) These structures must be constructed of wood or other Department-approved material;

(b) Roofs will be allowed;

(c) These structures must not exceed one hundred forty-four (144) square feet inclusive of an associated walkway (this square footage is not included in the five thousand (5,000) square-foot limitation on habitable structures);

(d) Only one of these structures per lot is permitted unless a limit of one would cause an unnecessary hardship as determined by the Department;

(e) These structures may not be constructed on the active beach or over primary oceanfront sand dunes, and if they ever become situated on the active beach they must be removed;

(f) These structures may be attached to the habitable structure provided they are not made an integral part of the habitable structure; and

(g) These structures may not be enclosed or screened.

I. The Construction and/or Repair of Drives and Parking Lots. Within the beaches and/or beach/dune system critical areas, the construction and/or repair of drives and parking lots is allowed provided all of the following requirements are met:

(1) On front row lots, new driveways and/or parking lots shall not extend seaward of habitable structures;

(2) Existing drives and/or parking lots may only be expanded on the landward side;

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- (3) No sand from the beach may be used during construction and/or repair;
- (4) No alteration of the primary oceanfront sand dune or its dune vegetation is allowed;
- (5) At the Department's discretion, a Stormwater Management Plan may be required;
- (6) The work shall comply with applicable local ordinances;

(7) Best Management Practices (BMPs) such as hay bales, silt fences, mulches, or other appropriate measures shall be used as necessary during the construction phase to prevent sedimentation reaching adjacent waters and wetlands. Upon project completion the disturbed areas shall be stabilized as soon as possible with grass or other appropriate vegetative cover; and

(8) No new driveway or parking lot shall be constructed seaward of the baseline unless a special permit as provided in S.C. Code Section 48-39-290(D) is obtained. In no circumstance shall a new driveway or parking lot be constructed on active beach.

J. Installation or Repair of Underground and Overhead Water, Sewer, Gas, Electrical, Telephone Lines and Cable Service Lines. Within the beaches and/or beach/dune system critical areas, the placement, maintenance, repair, and replacement of service lines are allowed provided the following requirements are met:

(1) All service lines, with the exception of subsea cables pursuant to R.30-15.F, shall be located as far landward as possible on each individual lot, and shall not be placed within active beach;

(2) Lines, junction boxes, poles, and accessory features will be relocated landward as far as possible in the event there is a need for replacement;

(3) Dunes allowed to be altered during construction shall be reconfigured and revegetated to preconstruction conditions;

(4) All work shall be in compliance with applicable local ordinances; and

(5) A comprehensive plan for new or replacement utilities shall be approved in writing by the Department.

K. Drainage Structures. Within the beaches and/or beach/dune system critical areas the placement, maintenance and repair, and replacement of drainage structures are allowed provided the following requirements are met:

(1) For new construction, the structures shall be part of the Department-approved Stormwater Management Plan or drainage plan which must be submitted either prior to or at the time the permit application is submitted.

(2) The replacement of drainage structures shall not involve an increase in the size of the existing structures, unless this change is approved by the Department as a part of the Stormwater Management Plan or drainage plan.

(3) Any disturbance to the dunes and dune vegetation shall be restored to pre-project conditions as soon as possible, and the restoration shall be approved by the Department staff.

(4) The drainage structure shall comply with the local drainage plan for the area within the beaches and/or beach/dune system critical areas.

(5) New drainage structures may be placed on the beach only if:

(a) Existing structures are eliminated; and

- (b) No feasible alternative exists.
- (6) All work shall be in compliance with applicable local ordinances.
- (7) Areas disturbed during construction shall be revegetated to the Department's satisfaction.

L. Sand Fences, Minor Beach Renourishment, and Dune Revegetation. In an effort to provide beachfront property owners with passive, low-cost dune stabilization methods, the placement, maintenance and repair, and replacement of sand fencing, dune revegetation, and minor renourishment may be allowed within the beaches and/or beach/dune system critical areas under the following conditions (Note: These steps may not be viewed as being undertaken for erosion control but rather as dune enhancement and stabilization measures. Since a broad beach and a healthy dune provide a storm buffer, these methods should aid the natural processes affecting the beaches and beach/dune system.)

- (1) Sand fencing requirements:
  - (a) The fence material shall be biodegradable.
  - (b) The fences shall be installed according to plans established by the Department staff.
  - (c) The fences shall be installed in a manner so as not to impede turtle nesting. The Department may require sand fences be moved or removed entirely if the fences are found to impact turtle nesting activities or, in the Department's opinion, have the potential to impact turtle nesting activities.
  - (d) The fence shall be placed above the highest up rush of the waves as determined by the Department staff.
  - (e) The fencing shall not impede public access.
  - (f) The fence shall be installed with the understanding that this is a temporary measure.
  - (g) If fence material is damaged, debris shall be removed expeditiously from the beach area by the owner.
  - (h) If the Department determines that the fence has a detrimental impact to the beaches and/or beach/dune system, it shall be removed by the owner as directed by the Department.

(2) Revegetation requirements: Property owners are encouraged to plant vegetation as a means of stabilizing oceanfront dunes. The roots of plant material tend to bind sand to dunes, while plant foliage serves to trap wind-blown sand. Suggested plant varieties include, but are not limited to, American beach grass (*Ammophila breviligulata*), bitter panicum (*Panicum amarum*), and sea oats (*Uniola paniculata*).

(a) Vegetation may be planted any time during the year and shall be planted, irrigated and fertilized according to nursery instructions or the Department's recommendations.

(b) The Department staff shall inspect the site first and determine that there is a need for vegetative stabilization.

(3) Minor renourishment is allowed in an attempt to build and maintain healthy dunes. Minor renourishment requirements are:

(a) Sand shall be compatible in size and grain color, shall be from an upland source, and its use approved in writing by the Department staff.

(b) Minor renourishment shall be performed between November 1 and May 15.

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(c) The Department staff shall inspect the site and establish that there is a need for the project.

(d) All projects shall be in compliance with applicable local ordinances.

M. Returning Sand to the Beaches and Beach/Dune System. Within the beaches and/or beach/dune system critical areas, sand that has drifted out of these critical areas may be returned to them if the following requirements are met:

(1) A description of the proposed work shall be submitted to and approved in writing by the Department prior to any initiation of work; and

(2) Work is pursuant to R.30-13(L)(3).

N. Erosion Control.

(1) Jetties and offshore breakwaters interfere with the natural transport of sediment and therefore require special permits. They shall only be permitted after thorough analysis of the project demonstrates that there will be no negative effect on adjacent areas. The following standards shall apply:

(a) A bond may be required to ensure that necessary remedial steps are taken to alleviate any adverse effects on adjacent areas caused by the installation of these structures. These remedial steps may include redesign and reconfiguration of the structures or even complete removal.

(b) A monitoring plan to assess post-project impact on adjacent areas must be approved by the Department prior to the issuance of a permit.

(c) Construction activities shall be scheduled so as not to interfere with nesting and brood-rearing activities of sea birds, sea turtles, or other wildlife species.

(d) Where feasible, jetties shall be designed to provide public recreational fishing opportunities.

(e) The applicant must have written approval from the local government which has jurisdiction in the area where the project is proposed.

(2) Protection of Beaches and Artificial Beach Nourishment: The following requirements apply to the Department's consideration of projects for the renourishment of beaches:

(a) Careful study shall be given to the type (grain size and quality) of material most suitable for nourishment of a particular beach area;

(b) Borrow areas and sand for artificial nourishment shall be carefully selected to minimize adverse effects. Where possible, artificial beach nourishment shall be performed in concert with inlet stabilization or navigation projects;

(c) Dredging in the borrow areas shall not be in conflict with spawning seasons or migratory movements of significant estuarine or marine species. Nourishment of beach areas shall be scheduled so as not to interfere with nesting and brood-rearing activities of sea birds, sea turtles, or other wildlife species; and

(d) All policies concerning dredging and filling cited at R.30-12(G) shall be applied to beach nourishment proposals.

(3) Erosion Control Structures or Devices.

(a) No new erosion control structures or devices are allowed within the beaches and/or beach/dune system critical areas except to protect a public highway which existed as such on June 25, 1990.

(b) No erosion control structures or devices may be incorporated as an integral part of a habitable structure.

(c) Erosion control structures or devices must not be enlarged, strengthened, or rebuilt but may be maintained in their present condition if not destroyed more than the percentage allowed in S.C. Code Section 48-39-290(B)(2)(b)(i), (ii), and (iii). Repairs must be made with materials similar to those of the structure or device being repaired.

(d) Erosion control structures or devices determined to be destroyed more than the percentage allowed in S.C. Code Section 48-39-290(B)(2)(b)(i), (ii), and (iii) must be removed at the owner's expense. Nothing in this section requires the removal of an erosion control structure or device which existed on July 1, 1988, that protected a public highway.

(e) Erosion control structures or devices which existed on June 25, 1990, must not be repaired or replaced if destroyed:

(i) more than eighty (80) percent above grade through June 30, 1995;

(ii) more than sixty-six and two-thirds ( $66 \frac{2}{3}$ ) percent above grade from July 1, 1995, through June 30, 2005.

(iii) more than fifty (50) percent above grade after June 30, 2005. [See R.30-14(D)(3)(c) and (d) for damage assessment.]

#### O. Sand Dune Management.

(1) Walkways over dunes, as provided in S.C. Code Section 48-39-130(D), shall meet the following requirements:

(a) All components must be constructed of wood or other Department-approved material;

(b) Have a maximum width of six (6) feet;

(c) Conform with the contour of the dunes with a two (2)-foot vertical clearance between the surface of the dune and top of the walkway;

(d) Displace no sand in a critical area;

(e) Be constructed with as little environmental damage as possible;

(f) Not be located within fifty (50) feet of another walkway on the same parcel of property;

(g) Be limited to no more than one (1) of these structures per lot unless a limit of one (1) would cause an unnecessary hardship as determined by the Department; and

(h) Be shore perpendicular, except as necessary for disability access.

(2) Projects to protect, restore, or build dunes shall conform to the following standards:

(a) The use of natural beach vegetation to trap wind-blown sand is encouraged. Where pedestrian traffic has destroyed natural vegetation, the use of temporary sand fencing or its equivalent may be permitted.



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(b) The construction of a dune by using beach sand and mechanical equipment shall be permitted only for restoration after unusual damage, such as that caused by a hurricane.

(c) Artificial dunes shall not be constructed seaward of the normal spring high-tide line.

(d) Any artificially constructed dunes shall be aligned to the greatest extent possible with existing dune ridges and shall be of the same general configuration as adjacent dunes.

P. Nonwater-dependent Structures. Nonwater-dependent structures, including, but not limited to, residences, restaurants, motel/hotel facilities, other commercial activities, and parking facilities, have been constructed in the past within the beach/dune system. The siting of new nonwater-dependent structures seaward of the baseline is prohibited unless a special permit is obtained pursuant to S.C. Code Section 48-39-290(D) and R.30-15(F).

### Q. Golf Courses.

(1) Golf Courses are allowed seaward of the baseline because they can adjust to a changing shoreline more readily than other types of land uses. The use of sandbags is allowed as temporary protection for golf courses located seaward of the baseline if the golf course existed prior to May 24, 1991, and if the emergency condition conforms with the definition of emergency in S.C. Code Section 48-39-10(U), and in accordance with R.30-15.H(1). Sand scraping or renourishment may be used as temporary protection for golf courses in accordance with R.30-15.H(4) and (5).

(2) Specific standards which shall apply are as follows:

(a) Leveling or damaging of dunes or dune fields is prohibited.

(b) Golf courses should be located as far landward as practicable to minimize encroachment into the setback area.

(c) Any lighting within the beaches and/or beach/dune system critical areas must be low intensity and adequately shielded to prevent impact on sea turtle nesting.

(d) Measures must be taken to protect the integrity of the primary oceanfront sand dune from foot traffic. These measures may include:

(i) courses designed in a manner that will minimize adverse effects on the sand dunes;

(ii) physical barriers such as sand fencing placed at the landward trough of the dune;

(iii) certain types of vegetation that would discourage pedestrian traffic; and/or

(iv) any other measures the Department may deem necessary.

### R. Fishing Piers:

(1) New fishing piers are allowed seaward of the baseline in order to provide public access to our coastal resources.

(2) Specific standards which shall apply to the construction of new piers or the alteration of existing piers are as follows:

(a) New piers must be dedicated to public use. A reasonable fee may be charged to the public but the general public may not be excluded from use.

(b) No restaurant, arcade, or other nonwater-dependent structure shall be placed on the pier seaward of the baseline or over the active beach.

(c) The height of the pier stringers and spacing of the piles must be able to accommodate vehicular traffic associated with emergency operations and renourishment projects.

#### S. Pilot Projects.

(1) Any person wishing to utilize or alter the beaches or beach/dune system critical areas as part of a pilot project qualifying under S.C. Code Section 48-39-320(C) must receive a pilot project permit from the Department. The Department may consider pilot projects that are intended to study the efficacy of any new technology, methodology or structure that has not previously been tested in South Carolina, is not regulated elsewhere under South Carolina statute or regulation, and is reasonably anticipated to be successful in addressing an erosional issue in the beaches or beach/dune system critical areas. According to S.C. Code Section 48-39-250, the use of armoring in the form of hard erosion control devices to protect erosion-threatened structures adjacent to the beach has not proven effective and, in many instances, contributes to the deterioration and loss of the dry sand beach. The installation of new erosion control structures or devices as part of a pilot project will not be permitted.

(2) Because pilot projects may have unknown risks, in addition to the requirements of R.30-2, the applicant for a pilot project must provide the following information, and any other information that the Department determines necessary, before a pilot project permit application is considered complete:

- (a) Detailed study design and purpose that includes, but is not limited to:
  - (i) Documentation of the erosional issue at the study area;
  - (ii) Study methodology, including how the project is expected to address the erosional issue;
  - (iii) Location of the study including anticipated boundary of potential impacts;
  - (iv) Established control site(s);
  - (v) List of materials and specifications to be deployed or installed;
  - (vi) Timeline of the project, including end date of the study;
  - (vii) Anticipated outcomes;
  - (viii) Previous findings of any existing or similar technology, methodology, or structure that has been implemented in other areas/states; and
  - (ix) Strategy for removal and restoration, if required, after a storm event, at the conclusion of the study, and/or if the Department requires its termination pursuant to R.30-13.S(3)(g).

(b) Monitoring plans. Applications for pilot projects must be accompanied by a detailed monitoring plan. The monitoring plan must be approved by the Department prior to permit issuance and shall become a condition of the permit. Monitoring shall be required for the life of the pilot project. Monitoring plans must include, but are not limited to, photographs, data, and information necessary to measure and evaluate pre- and post-site conditions at pilot and control sites and adjacent areas.

(c) Applications must include information that demonstrates coordination with federal, state, and local entities. This coordination in no way affects or limits the ability of these entities to comment on the entire permit

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application before the Department. The applicant must have written acknowledgement from the local government which has jurisdiction in the area where the project is proposed.

(3) The following standards, along with any special conditions that may be appropriate, shall apply to pilot projects:

(a) Any construction activities associated with the pilot project shall be scheduled so as not to interfere with nesting and brood-rearing activities of shorebirds, sea turtles, or other wildlife species;

(b) No part of the project can be constructed upon the primary oceanfront sand dune and construction activities shall not adversely impact the primary oceanfront sand dune;

(c) Installation of seawalls, bulkheads, or revetments is not allowed as part of a pilot project;

(d) No non-native or invasive species shall be allowed as part of a pilot project. Only native beach vegetation may be used as part of a pilot project and must be approved by the Department. Approval may require the applicant to submit a certified letter from the supplier of the source material.

(e) Pilot projects shall avoid adverse effects to flora, fauna, and physical and aesthetic resources to the maximum extent practicable;

(f) Modifications to the project design, materials, or other aspects of the pilot project must be submitted, evaluated, and approved by the Department prior to implementation. The Department may require a formal permit amendment and public notice depending on the scope of the proposed modifications.

(g) The Department may require the termination of the pilot project and/or the removal of pilot project materials, and/or require restoration of impacted critical areas, for reasons that include, but are not limited to:

(i) deployed materials are no longer generally intact and functional;

(ii) deployed materials have resulted in marine debris;

(iii) the pilot project impedes navigation or public use of state lands and waters;

(iv) the pilot project timeline has concluded;

(v) the pilot project has resulted in material harm to flora, fauna, or physical or aesthetic resources; or if

(vi) an adjacent or downdrift community or property owner demonstrates to the Department that the pilot project caused or is causing an adverse impact.

(h) The applicant for a pilot project shall provide a financially binding commitment, such as a performance bond or letter of credit that is reasonably estimated to cover the cost of removal of the project, and/or restoration of the affected beach and/or beach dune system as approved by the Department. The financially binding commitment shall authorize the Department to utilize these financial commitments in the event that the permittee is required to remove the project and/or restore the affected area and fails to do so.

(4) Upon completion of the pilot project, the permittee must submit a detailed final report to the Department.

(a) The final report must be submitted within ninety (90) calendar days of the project end date and include, but is not limited to, photographs, data, analysis, and information pertaining to the following:

(i) pre- and post-site conditions at pilot and control sites and adjacent areas;

- (ii) impacts of the project to flora, fauna, or physical or aesthetic resources;
- (iii) impacts to adjacent and downdrift properties;
- (iv) the pilot project's effects on the erosional issue in the beaches and/or beach/dune system critical areas; and
- (v) any other information the Department determines is necessary to evaluate the success of the pilot project.

(b) The Department will review the final report and shall render a final determination regarding the success of the pilot project in addressing an erosional issue in a beach and/or beach/dune system critical area. The Department's determination of success will include an assessment of both the beneficial effects and adverse impacts of the project. If the Department determines that the pilot project is successful, the Department may authorize the use of the studied technology, methodology, or structure at the study site or additional locations through a critical area permit or emergency order. If the Department determines that the pilot project is unsuccessful, it must be removed within thirty (30) calendar days of the final decision.

### **R.30-15. Activities Allowed Seaward of Baseline.**

#### **Amend R.30-15.H to read:**

H. Emergency Orders: Emergency situations before or after a storm event may prompt the Department, or an appointed official of a county or municipality or of the state to issue emergency orders under R.30-5, allowing property owners to construct temporary barriers against wave uprush. A structure is determined to be in imminent danger when the erosion comes within twenty (20) feet of that structure. If the Department determines that extenuating circumstances related to site conditions exist, the Department, at its discretion, may allow the use of emergency orders when erosion is beyond twenty (20) feet of the structure. In an effort to protect Loggerhead turtle nesting sites, emergency orders issued between April 15th and November 1st must be reviewed by the Department prior to actual performance of the activity authorized by the emergency order. The U.S. Army Corps of Engineers must be notified within seventy-two (72) hours of the issuance of an emergency order by the Department if the Department issued the emergency order. If the emergency order is issued by an appointed official such notification must be accomplished by the issuing official. The property owner or other recipient of the emergency order must obtain any additional permit(s) and agency review(s) that may be required by other local, state or federal agencies. All required permits and reviews must be obtained prior to the commencement of work pursuant to the issued emergency order. Unless otherwise approved by the Department, emergency sandbagging, sand scraping and renourishment shall be performed using the criteria established in this section. The Department may apply any requirements under this section to any Department-approved technology that is authorized under an emergency order.

(1) Emergency orders for sandbags may be issued by the Department, or upon written notification to the Department by an appointed official of a county or municipality or of the state acting to protect public health and safety. Sandbags shall only be used to construct temporary protection for existing habitable structures and critical infrastructure if the Department or appointed official determines a structure to be in imminent danger and emergency conditions conform with the definition of emergency in S.C. Code Section 48-39-10(U), or as allowed in R.30-13.Q(1). In this section, "critical infrastructure" shall mean utilities, roadways and associated infrastructure necessary to provide for public health and safety, communication, and transportation.

(2) Emergency orders for sandbags shall be subject to the following process:

(a) The Department or an appointed official of a county or municipality or of the state may issue emergency orders for areas specifically included under a state emergency declaration or at the request of a local government or property owner.

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(b) Within one hundred twenty (120) days of the issuance of an emergency order for sandbags, the property owner may provide the Department with evidence that their community has a feasible and financially viable renourishment plan for the affected area that is consistent with their approved Local Comprehensive Beachfront Management Plan.

(c) If the property owner has not provided the Department with an acceptable plan for renourishment within one hundred twenty (120) days of the issuance of an emergency order for sandbags, then the emergency order shall expire at the end of the one hundred twentieth (120th) day, and the sandbags shall be removed at the property owner's expense.

(d) If the property owner's plan is acceptable and calls for renourishment, then a renourishment permit application shall be submitted to the Department within eighteen (18) months of the issuance of the emergency order.

(i) If the Department approves the renourishment permit, sandbags shall be allowed to remain in place for up to twelve (12) months after the permit is issued to allow sufficient time for the project to be completed, but must be removed at the property owner's expense prior to the placement of renourishment sand at the property, or at the end of the twelve (12)-month period, whichever occurs first.

(ii) If the Department denies the renourishment permit application, the sandbags shall be removed within ninety (90) days of the final agency decision, including all appeals, at the property owner's expense.

(iii) If a renourishment permit application is not submitted to the Department within eighteen (18) months of the issuance of the emergency order, the emergency order shall expire at the end of the eighteenth (18th) month, and the sandbags shall be removed at the property owner's expense.

(3) To maintain the temporary nature that is intended for the use of sandbags, the following criteria shall be used when issuing emergency orders for sandbags:

(a) The bags shall be commercially manufactured for the purpose of holding sand. One year from the effective date of these regulations, applicants must provide information demonstrating that all bags are specifically manufactured for use in a coastal environment, considering factors such as resistance to saltwater corrosion, UV degradation, and durability in erosive conditions, among other appropriate factors as determined by the Department. Biodegradable bags may be required if deemed appropriate by the Department.

(b) The bags, when filled, shall be a maximum size of approximately one (1) cubic yard.

(c) The bags may be placed no farther seaward than is necessary to protect the existing habitable structure, critical infrastructure or golf course qualified under R.30-13.Q(1). In no case may sandbags be used to protect a dune. Sandbags may not retard normal shoreline movement unless used to protect an existing habitable structure, critical infrastructure or golf course qualified under R.30-13.Q(1).

(d) All sandbags are to be placed parallel to the shoreline. Excavation shall not be allowed below existing beach grade. The toe of the sandbags shall not be buried during installation. At no time shall the sandbags be buried or covered with sand from non-natural processes, including sand scraping or renourishment.

(e) Sandbags shall generally be limited to a maximum height of six (6) feet above the beach. The sandbags shall be stacked at an angle no steeper than forty-five (45) degrees.

(f) The Department may consider site specific engineering reports which will improve the effectiveness of sandbag placement for site specific situations.

(g) Sandbag fill material must be from an upland source and compatible in grain size and color with the native beach sand and should contain no more than a minimal amount of organic material. Only clean sand may be placed in the bags.

(h) The property owner is responsible for the day-to-day maintenance of the sandbags to ensure that they remain in the location authorized by the emergency order, above grade and in good repair. The Department may allow sandbags which become buried or partially buried through natural processes to remain in place for the duration of the emergency order process as outlined in R.30-15.H, provided that the coordinates and number of bags have been surveyed, and written documentation has been provided to the Department. Failure to maintain the sandbags may result in the Department requiring the removal of the sandbags at the property owner's expense.

(i) A copy of the issued emergency order shall be in the possession of anyone performing the placement of sandbags.

(4) Emergency orders for sand scraping may be issued by the Department, or upon written notification to the Department by an appointed official of a county or municipality or of the state acting to protect public health and safety. Sand scraping may be used to construct temporary protection if the Department or local official determines a structure to be in imminent danger and emergency conditions conform with the definition of emergency in S.C. Code Section 48-39-10(U). The following criteria shall be used when issuing emergency orders for sand scraping:

(a) Sand scraping may only be ordered and performed to protect existing structures. Sand scraping shall not be allowed in front of erosion control structures unless it can be proven that the erosion control structure is itself in danger of collapsing and is within ten (10) feet of the habitable structure.

(b) Sand scraping may be used to provide temporary protection for golf courses pursuant to the requirements of this subsection.

(c) Sand may only be scraped from the intertidal beach and only between extended property lines of the structure receiving the sand. The depth of scraping may not exceed one (1) foot below the existing beach level.

(d) Sand may be placed against an eroded scarp or to replace an eroded dune that is seaward of a threatened structure. The dune shall not exceed six (6) feet above grade or twenty (20) feet in width as measured from dune toe to dune toe.

(e) No sand may be placed landward of an existing, functional erosion control device.

(f) Sand scraping may be performed one (1) time only per property for each emergency order issued by the local official without prior approval by the Department.

(g) A copy of the issued emergency order shall be in the possession of anyone performing sand scraping.

(h) Sand scraping activities shall generally be accomplished through private or local funding unless a state of emergency is declared, then state funding is not precluded.

(5) Emergency orders for renourishment may be issued by the Department, or upon written notification to the Department by an appointed official of a county or municipality or of the state acting to protect public health and safety. Renourishment may be used to construct temporary protection if the Department or local official determines a structure to be in imminent danger and emergency conditions conform with the definition of emergency in S.C. Code Section 48-39-10(U). The following criteria shall be used when issuing emergency orders for renourishment:

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(a) Renourishment sand must originate from an upland source and be approved by the Department as compatible in grain size and color with the native beach sand and should contain no more than a minimal amount of organic material.

(b) Sand placed on the beach must be located between the extended property lines of the property receiving the sand.

(c) Sand may be stabilized with sand fencing and beach vegetation pursuant to the permitting requirements in R.30-13.L.

(d) A copy of the issued emergency order shall be in the possession of anyone performing authorized renourishment activities.

(e) Renourishment activities conducted under an emergency order may be used to provide temporary protection for golf courses pursuant to the requirements of this subsection.

(f) Renourishment activities conducted under an emergency order shall generally be accomplished through private or local funding unless a state of emergency is declared, then state funding is not precluded.

### **Fiscal Impact Statement:**

The Department estimates minimal additional cost incurred by the state or its political subdivisions as a result of the promulgation, approval, and implementation of these proposed amendments. The Department will use existing staff and resources to implement these amendments.

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

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

DESCRIPTION OF REGULATION: R.30-1., Statement of Policy; R.30-2., Applying for a Permit; R.30-11., General Guidelines for All Critical Areas; R.30-13., Specific Project Standards for Beaches and the Beach/Dune System, and R.30-15., Activities Allowed Seaward of the Baseline.

Purpose: These amendments are proposed to improve the Department's implementation of the state's policy of beach preservation, as adopted under the 2018 Beachfront Management Reform Act (Act 173 of 2018). Although the state has been utilizing beach preservation approaches, like beach nourishment, to manage the beaches and beach/dune system critical areas since the 1980s, Coastal Division regulations currently lack a definition for beach preservation. Establishing a regulatory definition for beach preservation will provide guidance for regulatory staff to ensure projects within South Carolina beaches and beach/dune system critical areas uphold the state's policy of beach preservation. The proposed regulatory definition was developed by the Workgroup, convened by the Department in 2022.

As part of the beach preservation discussion, the Workgroup examined pilot projects proposed within the beaches or beach/dune system critical areas. Pursuant to S.C. Code Section 48-39-320(C), pilot projects may be allowed if it is reasonably anticipated that the use will be successful in addressing an erosional issue in a beach or dune area.

Pilot projects may have unknown risks, which could impact species and habitat, the economic benefits associated with the beaches and beach/dune system critical areas, and public use of these resources. Proposed amendments, developed in coordination with the Workgroup, specify requirements and standards for pilot projects proposed within the beaches or beach/dune system critical areas. These requirements and standards will provide clarity for those wanting to utilize or alter the beaches or beach/dune system critical areas as part of a pilot project,

improve the Department's ability to properly evaluate pilot projects, and ensure their use does not conflict with the state's policy of beach preservation.

South Carolina's beaches are experiencing an increase in the rate of shoreline change which has resulted in beaches critical area being located landward of the state's beach/dune system critical area. The Workgroup reviewed the effects of this shoreline change on regulated activities that are allowed within these beachfront critical areas, including habitable structures and erosion control structures. Based on the Workgroup's recommendations and additional Departmental review, the proposed amendments were developed to provide for consistency in the application of standards for activities across the beaches and beach/dune system critical areas and to support the policy of beach preservation.

During the 2024 legislative session, in coordination with a subcommittee of the Senate Agriculture and Natural Resources Committee, additional amendments were included within R.30-1.D, 30-11.D, 30-13, and 30-15.H. These amendments add a definition for beaches that matches statutory language and further clarify the definition of beach preservation, statutory requirements associated with erosion control structures, specific project standards for beaches and the beach/dune system, and pilot project language. Additionally, the amendments clarify regulations related to emergency orders and the use of sandbags seaward of the baseline.

Legal Authority: 1976 Code Sections 48-39-10 et seq.

Plan for Implementation: The amendments will take legal effect upon General Assembly approval and upon publication in the State Register. Department personnel will then take appropriate steps to inform the regulated community of the amendments. Additionally, a copy of the regulation will be posted on the Department's website, accessible at [www.scdhec.gov/regulations-table](http://www.scdhec.gov/regulations-table). Printed copies may also be requested, for a fee, from the Department's Freedom of Information Office.

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

The Department is charged with implementing the state's policy of beach preservation, as established under the 2018 Beachfront Management Reform Act. Coastal Division regulations currently lack a regulatory definition for beach preservation, have insufficient requirements and standards associated with pilot projects proposed within the beaches or beach/dune system critical areas, and need consistency and clarity in implementing activities across beachfront critical areas. The Department proposes amending these regulations to provide a beach preservation definition, define requirements and project standards for pilot projects within the state's beaches or beach/dune system critical areas, and to provide for consistency in the application of standards for activities across the beaches and beach/dune system critical areas.

The proposed amendments will provide additional guidance for regulatory staff ensuring future projects within the beaches and beach/dune system critical areas align with the state's policy of beach preservation. The proposed amendments also provide the regulated community with more clarity on the requirements for pilot projects and other activities proposed within the beaches or beach/dune system critical areas. Additionally, the proposed amendments ensure regulatory staff have sufficient information to evaluate pilot projects in these critical areas. The proposed amendments are reasonable and necessary to manage and preserve the long-term health and sustainability of the state's beaches and beach/dune system critical areas.

#### DETERMINATION OF COSTS AND BENEFITS:

The Department anticipates minimal additional costs to the state resulting from the administration and processing of these proposed amendments. Benefits to the state would include improved management of coastal resources by creating a regulatory definition for beach preservation, identifying requirements and project standards for pilot projects, and providing consistency for implementing activities across beachfront critical areas. The Department does not anticipate additional cost to the regulated community as a result of the proposed



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amendments associated with beach preservation and the beaches critical area. The proposed amendments associated with pilot projects within the beaches and beach/dune system critical areas, establishing a permitting pathway for these activities, will be subject to the administrative fee structure outlined in R.61-30.G(13), *Environmental Protection Fees*.

### UNCERTAINTIES OF ESTIMATES:

None.

### EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Implementation of the proposed amendments seeks to benefit the environment by providing more clarity to the Department's statutory directives to manage the state's beaches and beach/dune critical areas in a manner that promotes the policy of beach preservation.

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

Not implementing these proposed amendments will result in continued challenges associated with the Department's ability to properly implement the policy of beach preservation. Further, there will continue to be a lack of guidance for those wishing to utilize or alter the beaches or beach/dune system critical areas through the use of a pilot project, and there will continue to be a lack of project standards necessary for regulatory staff to sufficiently evaluate pilot projects sited within these critical areas. Finally, there will be continued inconsistencies in the application of standards for activities across the beaches and beach/dune system critical areas.

### Statement of Rationale:

Here below is the Statement of Rationale pursuant to S.C. Code Section 1-23-110(A)(3)(h):

The Department is charged with implementing the state's policy of beach preservation, as established under the 2018 Beachfront Management Reform Act. Coastal Division regulations currently lack a regulatory definition for beach preservation, lack requirements and project standards associated with pilot projects proposed within the beaches or beach/dune system critical areas, and need consistency in the application of standards for activities across the beaches and beach/dune system critical areas.

The Department proposes amending these regulations to provide a beach preservation definition, identify requirements and project standards for pilot projects that would utilize or alter the state's beaches or beach/dune system critical areas, and provide for consistent application of standards within the beaches and beach/dune system critical areas. Recommendations and key findings from the Beach Preservation Stakeholder Workgroup were the primary basis for developing these proposed amendments.

Document No. 5226

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

Statutory Authority: 1976 Code Sections 13-7-10 et seq.

61-83. Transportation of Radioactive Waste Into or Within South Carolina.

### Synopsis:

Pursuant to S.C. Code Ann., Sections 13-7-10 et seq., the Department of Health and Environmental Control (“Department”) requires compliance with all applicable provisions and current revisions of Title 10, Part 71 of the Code of Federal Regulations (10 CFR 71), and any disposal facility’s radioactive material license requirements and site disposal criteria regarding the packaging, transportation, disposal, storage or delivery of radioactive materials. The Department proposes amending R.61-83 to incorporate 10 CFR 71 regulations promulgated in 2018, provide clarification for conformance with disposal site criteria, include an exemption allowance to be consistent with R.61-63, *Radioactive Materials (Title A)*, and update forms to the current Department documents in use. The proposed amendments may also include stylistic changes, which may include corrections for clarity and readability, grammar, punctuation, definitions, references, codification, and overall improvement of the text of the regulation.

The Department had a Notice of Drafting published in the April 28, 2023, South Carolina State Register.

Section-by-Section Discussion of Amendment:

Section	Type of Change	Purpose
Statutory Authority	Addition	Added statutory authority for clarity.
Table of Contents	Reorganization	Updated to reflect proposed amendments to regulatory text.
Section 1		
1.2	Addition/Deletion	Cited Federal regulations adopted by reference.
Section 2		
2.1-2.2	Technical Correction	Corrected for punctuation.
2.11.1-2.11.2	Technical Correction, Revision	Corrected for punctuation and to clarify shipper reference.
Section 3		
3.1	Revision	Revised contact information and revise form number.
3.2, 3.2.3, 3.2.4	Technical Correction	Corrected for punctuation.
3.2.5	Technical Correction, Revision	Corrected for punctuation and to clarify shipper reference.
3.3	Revision	Amended to add criteria type.
3.5.1-3.5.2	Revision	Amended for stylistic clarity.
Section 4		
4.1	Revision	Amended for stylistic clarity.
4.1.1	Revision	Updated form identification number.
4.1.2	Revision	Amended to clarify shipper reference.
4.2	Revision	Updated form identification number.
4.3	Revision	Updated form identification number.
4.4	Revision	Updated form identification number.
Section 5		
5.1	Revision	Updated form identification number.
5.1.1-5.1.2	Technical Correction	Corrected for punctuation.

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5.1.3	Revision	Updated form identification number.
5.2	Revision	Updated form identification number.
5.3	Revision	Updated form identification number.
Section 7		
7.1.1	Technical Correction	Corrected for misspelled word.
7.1.2	Revision	Amended for stylistic clarity and to clarify shipper reference.
7.2.1	Technical Correction	Corrected for punctuation.
7.2.2	Revision	Amended for stylistic clarity and to clarify shipper reference.
7.4	Revision	Amended for stylistic clarity.
Section 8 (new)	Addition	Included an exemption for consistency with R.61-63.
Section 9 (previous Section 8)	Technical Correction	Corrected for codification.
Attachments	Deletion	Removed forms from the regulations and indicate by reference source of forms.

### Instructions:

Print the regulation as shown below.

### Text:

61-83. Transportation of Radioactive Waste Into or Within South Carolina.

Statutory Authority: S.C. Code Ann. Sections 13-7-10 et seq.

### Table of Contents:

Section 1	Scope
Section 2	Definitions
Section 3	Permits
Section 4	Shipper's Requirements
Section 5	Carrier's Requirements
Section 6	Disposal Facility Operator
Section 7	Penalties
Section 8	Exemptions from the Requirements of this Regulation
Section 9	Severability Clause

### 1. SCOPE

1.1 This regulation applies to any shipper, carrier or other person who transports radioactive waste into or within this State, to any persons involved in the generation of radioactive waste within this State, and to any shipper whose radioactive waste is transported into or within this State or is delivered, stored, or disposed of within this State.

1.2 All persons subject to the provisions of this regulation shall comply with all applicable provisions of the Nuclear Regulatory Commission Title 10 CFR Part 71 as revised February 23, 2018, (with the exception of

sections 71.2, 71.6, 71.11, 71.14(b), 71.17, 71.19, 71.21, , 71.31, 71.33, 71.35, 71.37, 71.38, 71.39, 71.41, 71.43, 71.45, 71.51, 71.52, 71.53, 71.55, 71.59, 71.61, 71.63, 71.64, 71.65, 71.70, 71.71, 71.73, 71.74, 71.75, 71.77, 71-85(a)-(c), 71-91(b)-(d), 71.99 and 71.100), 71.101(a), 71.101(b), 71.101(c)(1), 71.101(c)(2), 71.101(d), 71.101(e), 71.103(a), 71.106, 71.107, 71.109, 71.111, 71.113, 71.115, 71.117, 71.119, 71.121, 71.123, 71.125, and 71.135.

## 2. DEFINITIONS

2.1 “Carrier” means any person transporting radioactive wastes into or within the State for storage, disposal, or delivery.

2.2 “Department” means the Department of Health and Environmental Control, including personnel authorized to act on behalf of the Department.

2.3 “Disposal facility” means any facility located within the State, which accepts radioactive waste for storage or disposal.

2.4 “Generation” means the act or process of producing radioactive waste.

2.5 “Manifest” means the document used for identifying the quantity, composition, origin, and destination of radioactive waste during its transport to a disposal facility.

2.6 “Operator” means every person who drives or is in actual physical control of a vehicle transporting radioactive waste.

2.7 “Persons” means any individual, public or private corporation, political subdivision, government agency, municipality, industry, partnership or any other entity whatsoever.

2.8 “Permit” means an authorization issued by the Department to any person involved in the generation of radioactive waste, to transport such radioactive wastes or offer such waste for transport.

2.9 “Radioactive waste” means any and all equipment or materials, including irradiated nuclear reactor fuel, which are radioactive or have radioactive contamination and which are required pursuant to any governing laws, regulations, or licenses to be disposed of as radioactive waste.

2.10 “Radiological violation” means radioactive contamination or the emission of radiation in excess of applicable limits.

2.11 “Shipper” means any person, whether a resident of South Carolina or a non-resident:

2.11.1 who transfers radioactive waste to a carrier for transportation into or within the State; or

2.11.2 who transports their own radioactive waste into or within the State; or

2.11.3 who transfers radioactive waste to another person if such Waste is transported into or within the State.

2.12 “Transport” means the movement of radioactive wastes into or within South Carolina.

## 3. PERMITS

3.1 Before any shipper transports or causes to be transported radioactive waste into or within the State of South Carolina, the shipper shall purchase an annual radioactive waste transport permit from the Department.

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An application for a permit shall be submitted on Department Form SCDHEC-0800 “Application for Radioactive Waste Transport Permit” together with the necessary fee to: S.C. Department of Health and Environmental Control (SCDHEC), Bureau of Land and Waste Management/Radioactive Waste Management Section, 2600 Bull Street, Columbia, South Carolina, 29201. These forms are available on the Department website, or by other means the Department may provide.

3.2 Before a permit shall be issued, the shipper must deposit and maintain with the Department a cash or corporate surety bond in the amount of Five Hundred Thousand Dollars (\$500,000.00); or provide to the Department satisfactory evidence of liability insurance.

3.2.1 For purposes of this regulation, liability insurance shall mean coverage of Five Hundred Thousand Dollars (\$500,000.00) per occurrence and One Million Dollars (\$1,000,000.00) aggregate, or as otherwise provided by State law.

3.2.2 Any insurance carried pursuant to Section 2210 of Title 42 of the United States Code and Part 140 of Title 10 of the Code of Federal Regulations shall be sufficient to meet the requirements of this section.

3.2.3 Liability insurance shall be specific to the packaging, transportation, disposal, storage, and delivery of radioactive waste.

3.2.4 Shippers maintaining liability insurance for the purpose of this regulation may provide to the Department a certificate of insurance from their insurer indicating the policy number, limits of liability, policy date, and specific coverage for packaging, transportation, disposal, storage, and delivery of radioactive materials.

3.2.5 A cash or corporate surety bond previously posted will be returned to the shipper upon notification to the Department in writing of his or her intention to cease shipments of radioactive waste into or within the State. Such bond will be returned after the last such shipment is accepted safely at its destination.

3.3 Each permit application shall include a certification to the Department that the shipper will comply fully with all applicable State or Federal laws, administrative rules and regulations, licenses, or license conditions and waste acceptance criteria of the disposal facility regarding the packaging, transportation, storage, disposal, and delivery of radioactive wastes.

3.4 Each permit application shall include a certification that the shipper will hold the State of South Carolina harmless for all claims, actions, or proceedings in law or equity arising out of radiological injury or damage to persons or property occurring during the transportation of its radioactive waste into or within the State including all costs of defending the same; provided, however, that nothing contained herein shall be construed as a waiver of the State’s sovereign immunity; and, further provided, that agencies of the State of South Carolina shall not be subject to the requirements of this provision.

3.5 Permit fees will be annually determined and assessed by the Department based on the following classifications:

3.5.1 Class X—more than an annual total of seventy-five cubic feet (75 ft.<sup>3</sup>) or more than one hundred curies (100 Ci) of radioactive waste for disposal within the State.

3.5.2 Class Y—an annual total of seventy-five cubic feet (75 ft.<sup>3</sup>) or less of radioactive waste consisting of one hundred curies (100 Ci) or less total activity for disposal within the State.

3.5.3 Class Z—any shipment of radioactive waste, which is not consigned for storage or disposal within the State, but which is transported into or within the State.

3.6 Permits will be valid from the date of issuance through December 31 of each calendar year. Permit fees are not refundable. Permits may be renewed by filing a new application with the Department.

#### 4. SHIPPER'S REQUIREMENTS

4.1 Before any shipment of radioactive waste may be transported into or within the State, the shipper shall give written notice to the Department not less than seventy-two (72) hours nor more than thirty (30) calendar days before the expected date of arrival of the shipment or departure from the shipper's facility within the State as the case may be, except as provided in paragraph 4.1.3.

4.1.1 All prior notifications shall be filed on a Department form designated as SCDHEC-0802 "Radioactive Waste Shipment Prior Notification and Manifest Form."

4.1.2 The shipper shall immediately notify the Department of any cancellations or significant changes in the prior notification or manifest summary which may occur prior to the shipment departing the facility. For example, such changes include changes in date of arrival, carrier, route, waste description, curie content, volume, or waste classification.

4.1.3 For shipments consisting of seventy-five cubic feet (75 ft.<sup>3</sup>) or less containing one curie (1 Ci) of radioactive material or less which may be consigned as non-exclusive use shipments according to applicable U.S. Department of Transportation regulations, the requirement for prior notification contained in paragraph 4.1 is waived. Such shipments must otherwise comply with all other applicable requirements regarding the packaging, transportation, storage, disposal, and delivery of radioactive wastes.

4.2 The shipper shall provide to the carrier with each separate shipment a copy of the SCDHEC-0802 "Radioactive Waste Shipment Prior Notification and Manifest Form" required by paragraph 4.1. Such copy shall show any changes made pursuant to paragraph 4.1.2 above. Each shipper shall instruct the carrier to comply with the route and schedule contained therein.

4.3 The manifest accompanying each shipment of radioactive waste shall include a copy of the shipper's certification prepared on Department form SCDHEC-0803, Part I, "Radioactive Waste Shipment Certification Form," which shall include certification that the shipment has been inspected and complies with all applicable State and Federal laws and administrative rules and regulations, license or license conditions of the disposal facility regarding the packaging, transportation, storage, disposal, and delivery of radioactive wastes.

4.4 Following acceptance of each separate shipment at a disposal facility or at the consignee's facility, it shall be the responsibility of each shipper to provide to the Department for such shipment a copy of the Department form SCDHEC-0802 "Radioactive Waste Shipment Prior Notification and Manifest Form" with the Consignee Acknowledgement properly executed and to provide the Department with the "Radioactive Waste Shipment Certification Form," Department form SCDHEC-0803 which accompanied that shipment.

#### 5. CARRIER'S REQUIREMENTS

5.1 For each shipment of radioactive waste materials shipped into or within the State, a carrier shall complete Part II: Carrier's Certification on the form SCDHEC-0803 provided by the generator. The certificate shall be signed by a principal, officer, partner, responsible employee, or other authorized agent of the carrier.

5.1.1 The carrier shall certify that the shipment is properly placarded for transport and that all shipping papers required by law and administrative rules and regulations have been properly executed; and

5.1.2 that the transport vehicle has been inspected and meets the applicable requirements of the Federal government and the State of South Carolina, and that all safety and operational components are in good operative condition; and

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5.1.3 that the carrier has received a copy of the shipper's "Radioactive Waste Shipment Prior Notification and Manifest Form," form SCDHEC-0802 specified in paragraph 4.2 and the "Radioactive Waste Shipment Certification Form," form SCDHEC-0803 specified in paragraph 4.3; and

5.1.4 that the carrier shall comply fully with all applicable laws and administrative rules and regulations, both State and Federal, regarding the transportation of such waste.

5.2 A carrier shall immediately notify the Department of any variance, occurring after departure, from the primary route and estimated date of arrival of shipment as provided by the shipper on Form SCDHEC-0802.

5.3 The copies of Forms SCDHEC-0803 and SCDHEC-0802 shall accompany the shipment to the destination and shall be presented together with the manifest and other shipping papers.

### 6. DISPOSAL FACILITY OPERATOR

6.1 Owners and operators of disposal facilities shall permanently record, and report to the Department within twenty-four (24) hours after discovery, all conditions in violation of the requirements of this regulation discovered as a result of inspections required by any license under which the facility is operated.

6.2 Prior to the receipt of radioactive wastes at a disposal facility in this State, the owners and operators of such facility shall notify each shipper of any special requirements, if any, in effect regarding the packaging, transportation, storage, disposal, or delivery of such wastes at that facility.

6.3 No owner or operator of a disposal facility located within this State shall accept radioactive waste for storage or disposal unless the shipper of such waste has a valid, unsuspended permit issued pursuant to this regulation.

### 7. PENALTIES

7.1 Any person who commits a radiological violation shall:

7.1.1 be fined not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00); and

7.1.2 if such person is a shipper, have his or her permit suspended for a period of not less than thirty (30) calendar days and until such time as he or she demonstrates to the Department's satisfaction that adequate measures have been taken to prevent reoccurrence of the violation.

7.2 Any person who commits a second radiological violation within twelve (12) months of the first such violation shall:

7.2.1 be fined not less than Five Thousand (\$5,000.00) nor more than Twenty-five Thousand Dollars (\$25,000.00); and

7.2.2 if such person is a shipper, have his or her permit suspended for a period of not more than one (1) year and until such time as he or she demonstrates to the satisfaction of the Department that adequate measures have been taken to prevent reoccurrence of the violations.

7.3 Any person who commits a non-radiological violation of the provisions of this regulation shall be fined not more than One Thousand Dollars (\$1,000.00) for each violation; *provided*, that should the Department determine that a series of such violations has occurred, the Department shall suspend or revoke that person's permit for a period of not more than twelve (12) months.

7.4 Any person to whom an order, injunction, suspension, or fine issued under this article is directed shall comply therewith immediately, but on application to the Department, within twenty (20) calendar days after the date of the order, shall be afforded a hearing within thirty (30) calendar days of such application.

## 8. EXEMPTIONS FROM REQUIREMENTS OF THIS REGULATION

The Department may, upon application thereof or upon its own initiative, grant such exemptions or exceptions from the requirements of this regulation as it determines are authorized by law and will not result in undue hazard to public health and safety or property.

## 9. SEVERABILITY CLAUSE

It is hereby declared that each of the sections and provisions of this regulation are severable, if that any one or more of such sections are declared unconstitutional or invalid, the remaining sections and provisions of this regulation shall remain in effect.

### **Fiscal Impact Statement:**

None.

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

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

**DESCRIPTION OF REGULATION:** R.61-83, Transportation of Radioactive Waste Into or Within South Carolina.

**Purpose:** The Department proposes amending R.61-83, Transportation of Radioactive Waste Into or Within South Carolina, to incorporate the 2018 revisions to 10 CFR 71, and any disposal facility's radioactive material license requirements and site disposal criteria regarding the packaging, transportation, disposal, storage, or delivery of radioactive materials.

**Legal Authority:** 1976 Code Sections 13-7-10 et seq.

**Plan for Implementation:** The amendments will take legal effect upon Board approval and upon publication in the State Register. Department personnel will then take appropriate steps to inform the regulated community of the amendment. In Addition, a copy of the regulation will be posted on the Department's website, accessible at [www.scdhec.gov/regulations-table](http://www.scdhec.gov/regulations-table). For a fee, printed copies may also be requested, for a fee, from the Department's Freedom of Information Office.

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

Adoption of the proposed amendments of R.61-83 enables compliance with federal regulations and standards.

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

The proposed amendment will potentially relieve the burden to the regulated community by providing the ability to grant exemptions from the requirements of the regulation when authorized by law and when SCDHEC determines it will not result in undue hazard to public health and safety of property.

### **UNCERTAINTIES OF ESTIMATES:**



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No known uncertainties.

### EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

These proposed amendments will promote an effective regulatory program for radioactive material users under state jurisdiction, and protection of the public and workers from unnecessary exposure to ionizing radiation. These proposed changes will also provide updates to the transportation safety standards for radioactive materials.

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

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

### Statement of Rationale:

Here below is the Statement of Rationale pursuant to S.C. Code Ann., Section 1-23-110(A)(3)(h):

The regulation was promulgated pursuant to Act No. 429 of 1980, the South Carolina Radioactive Waste Transportation and Disposal Act, amending S.C. Code Ann. 13-7-10 *et seq.* of the South Carolina Atomic Energy and Radiation Control Act. The purpose of the regulation is to require written notification to the Department of shipments of radioactive waste by any shipper, carrier, or other person who transports such waste within the State's borders. An additional purpose of the regulation is to require that shippers of waste obtain adequate financial assurance and hold the State harmless in case of radiological injury or damage arising out of the transportation of the waste, and for the enforcement of transportation and disposal requirements of radioactive waste. This regulation applies to generators and shippers of radioactive waste, including, for example, nuclear power plants, waste brokers and processors, educational and government institutions, and research facilities.

Document No. 5240  
**DEPARTMENT OF INSURANCE**  
CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-110, 38-3-110, and 38-71-2200 *et seq.*

69-77. Pharmacy Benefit Managers.

### Synopsis:

The Department is proposing to amend Regulation 69-77 to reflect amendments to the laws governing PBMs during the 2023 legislative session and outline the new requirement regarding an external review procedure for Pharmacy Benefit Manager Appeal Denials and Pharmacy Benefit Manager Audits through the Department of Insurance. This regulation supports Section 38-71-2240 and Section 38-71-1810(22) which was amended during the 2023 legislative session and directs the Department to promulgate regulations that outline this procedure.

The Notice of Drafting was published in the *State Register* on July 28, 2023.

### Instructions:

Print the regulation as shown below.

### Text:

69-77. Pharmacy Benefit Managers.

## Section I. Purpose

The purpose of this regulation is to implement Act No. 48 of 2019 (“the Act”) regarding pharmacy benefits managers and to provide licensing, reporting and activity standards for pharmacy benefits managers.

## Section II. Licensure Requirements

A. Initial License and Renewal. On or after January 1, 2021, a pharmacy benefits manager shall apply for a license on a form and in accordance with a licensing schedule prescribed by the Director or his designee. The terms “Director” and “designee” have the meaning set forth in Section 38-1-20 of the Code of Laws of South Carolina 1976, as amended.

B. The initial licensing schedule shall be set by bulletin or order of the Director. In 2022, and thereafter, a pharmacy benefits manager license shall be renewed annually no later than March 1 of each year.

C. Each application for a license shall be certified by an officer or authorized representative of the applicant and shall contain a statement that certifies the pharmacy benefits manager is in compliance with Section 38-71-2220 of the Code of Laws of South Carolina 1976, as amended. All proprietary information submitted by the pharmacy benefits manager under Section II of this regulation shall be considered confidential under Sections 38-71-2250 and 30-4-40 of the Code of Laws of South Carolina 1976, as amended.

D. The pharmacy benefits manager shall provide as part of the application for licensure the following:

- (1) A non-refundable filing fee of \$1,000 for initial licensure and \$500 for renewal licenses;
- (2) A copy of the basic organizational document of the pharmacy benefits manager, such as the articles of incorporation, articles of association, partnership agreement, trust agreement or other applicable documents, and all amendments thereto;
- (3) a copy of the bylaws, organizational or similar document(s), if any, regulating the conduct or the internal affairs of the applicant;
- (4) A copy of the pharmacy benefits manager’s provider manual and written agreement(s), excluding pricing information, but including audit procedures, which it uses for contracts entered into with pharmacists, pharmacies or pharmacy services administrative organizations in administration of pharmacy benefits for health care insurers in this State or a representative written agreement and provider manual, excluding pricing information, but including audit procedures, for each type of network provider, which it uses for contracts entered into with pharmacists, pharmacies or pharmacy services administrative organizations in administration of pharmacy benefits for health care insurers in this State;
- (5) For the two preceding calendar years, a listing of health care insurers with which the pharmacy benefits manager was contracted in this State to perform claims processing services and the number of enrollees or beneficiaries covered by each health care insurer;
- (6) The relevant documentation, such as a policies and procedures manual, that demonstrates the pharmacy benefits manager has adopted processes to ensure compliance with the requirements in Section 38-71-2240 of the Code of Laws of South Carolina 1976, as amended, including any written policies or procedures describing the appeals dispute resolution process for in-network or contracted pharmacists or pharmacies;
- (7) A certified statement that indicates whether the applicant or officer with management or control:
  - (a) has been refused or denied a registration, license or certification to act as or provide the services of a pharmacy benefits manager or third-party administrator in any state, providing specific details separately for each such refusal or denial, if any, including the date, nature and disposition of the action; and
  - (b) has had any registration, license or certification to act as such suspended, revoked or nonrenewed for any reason by any state or federal entity, providing specific details separately for each such suspension, revocation or nonrenewal, if any, including the date, nature and disposition of the action, and attaching a copy of any relevant final order or similar document imposing the suspension, revocation or nonrenewal;
- (8) A description of whether the applicant has had a business relationship with an insurer terminated for any fraudulent or illegal activities in connection with the administration of a pharmacy benefits plan (if so, attach specific details separately explaining this termination, including the date, and nature of the termination); and
- (9) The phone number and any other contact information provided to pharmacies and pharmacists pursuant to Section 38-71-2235(B) through which the pharmacy or pharmacist can obtain answers during normal business

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hours within a reasonable time to questions regarding networks, patient benefits, appeals, and other contractual or service issues.

(10) The notice that is provided to pharmacies or pharmacists pursuant to Section 38-72-2240(D)(2) upon the denial of an internal appeal that notifies the pharmacy or pharmacist of the right to request an external review of the internal appeal and the supporting documents describing the external review process.

(11) Any other relevant information deemed necessary by the Director or his designee to evaluate the application for licensure or compliance with the requirements of the Act and this regulation.

### E. Review Process

#### (1) Initial and Renewal License Applications

For initial and renewal license applications, the Director or his designee shall review the application under Section II.D of this regulation, and may:

(a) approve the application and issue the applicant a pharmacy benefits manager license; or

(b) notify the applicant, in writing, that the application is incomplete and request additional information to complete the review; and, if the missing or requested information is not received within thirty (30) days from the date of the notification, the Director or his designee may deny the application; or

(c) deny the application; and

(i) provide written notice to the applicant that the application has been denied stating or explaining the basis of the denial; and

(ii) advise the applicant that it may appeal the denial by requesting a hearing in accordance with Section 38-3-210 of the Code of Laws of South Carolina 1976, as amended, before the South Carolina Administrative Law Court.

#### (2) Standards of Review

(a) The Director or his designee shall deny an initial or renewal application for licensure for the following reasons:

(i) the pharmacy benefits manager operates, or proposes to operate, in a hazardous condition and the services it administers, or proposes to administer, for health care insurers in this State may be hazardous to the insurance-buying public; or

(ii) the pharmacy benefits manager has violated the requirements of the Act, this regulation or other applicable South Carolina law; or

(iii) the pharmacy benefits manager has failed to timely submit information to complete review of the application under Section II of this regulation.

(b) In lieu of a denial of a renewal application, the Director or his designee may permit the pharmacy benefits manager to submit to the Director or his designee a corrective action plan to cure or correct deficiencies falling under Section II of this regulation, impose an administrative penalty under Section 38-2-10 et seq. of the Code of Laws of South Carolina, 1976 as amended, or both.

## Section III. Contract Review

### A. Contract Review

#### (1) Prohibited Contract Language

No contract entered into by a pharmacy benefits manager and a pharmacist or pharmacy which relates to participation or administration of a pharmacy benefits plan or program of a health care insurer shall contain language in violation of the Sections 38-71-2200 et seq of the Code of Laws of South Carolina 1976, as amended or other applicable provision of South Carolina law.

#### (2) Waiver Prohibited

The prohibitions set forth Sections 38-71-2220 et seq of the Code of Laws of South Carolina 1976, as amended cannot be waived by contract.

### B. Marketing and Advertising

Pursuant to Section 38-71-2230, a pharmacy benefits manager shall not cause or knowingly permit the use of any advertisement, promotion, solicitation, representation, proposal, or offer that is untrue, deceptive, or misleading. The Department does not review or otherwise pre-approve marketing materials prior to their use. It is the responsibility of the pharmacy benefits manager to ensure that its marketing materials comply with the laws of the State of South Carolina.

## Section IV. Examinations of Pharmacy Benefits Managers

A. Pursuant to Section 38-71-2250 of the Code of Laws of South Carolina 1976, as amended, as often as the director deems appropriate, but not less frequently than once every five years, the director or his designee

may examine or audit the books and records of a pharmacy benefits manager providing claims processing services or other prescription drug or device services for a health benefit plan that are relevant to determining if the pharmacy benefits manager is in compliance with the Act, applicable South Carolina law or requirements of this regulation. The recurring examination requirement begins January 1, 2025. Nothing in this regulation prevents the director or his designee from examining the books and records of a pharmacy benefits manager at any time that the director or his designee determines in his discretion that such an examination is necessary.

B. The pharmacy benefits manager shall pay the charges incurred in the examination, including the expenses of the director or his designee and the expenses and compensation of his examiners and assistants. The director or his designee promptly shall institute a civil action to recover the expenses of examination against a pharmacy benefits manager which refuses or fails to pay.

C. The information or data acquired during an examination is considered proprietary and confidential and is not subject to the South Carolina Freedom of Information Act.

## Section V. Record Keeping Requirements

## A. Maximum Allowable Costs

In order to facilitate any examination conducted by the Director pursuant to Section IV of this regulation, pharmacy benefits managers shall maintain a record keeping system which shall track and monitor the following statistical information:

(1) the number of challenges or appeals the pharmacy benefits manager received under the maximum allowable cost provisions of the Act;

(2) the outcomes of each of those challenges or appeals, whether denied or upheld by the pharmacy benefits manager, and sufficient information to determine compliance with Section 38-71-2240. This information must include the following:

(a) notice to the challenging pharmacy of the appeal results and the information required by Section 38-71-2240; and

(b) documentation of any changes made for similarly situated pharmacies as outlined in the Act.

B. A request under this Subsection shall be considered a special report pursuant to Section 38-13-160 of the South Carolina Code of Laws 1976, as amended, and all information submitted in the response shall be confidential. The requirements of this Subsection shall apply for appeals or challenges beginning with the first quarter of 2021.

## C. Pharmacy Provider Complaints

(1) The pharmacy benefits manager shall designate the name, address, and phone number, including an electronic mail contact, of the organization which shall be responsible for responding to the Department for complaints the Department has received from pharmacy providers. The pharmacy benefits manager shall be subject to Section 38-13-70 of the Code of Laws of South Carolina 1976, as amended related to the time period for a response to the Department.

(2) A pharmacy provider or other person acting on its behalf shall make reasonable efforts to exhaust any internal appeal requirements of the pharmacy benefits manager prior to the filing of a complaint with the Department. However, a pharmacy provider shall not be required to exhaust internal appeal requirements of the pharmacy benefits manager if a pharmacy benefits manager has failed to abide by its internal appeal processes. A pharmacy benefits manager shall not be held responsible for failure to provide communication or timely processing in the event that a provider or pharmacy has not submitted sufficient information for the pharmacy benefits manager to process the appeal.

(3) The Department shall review the complaints, and upon determination of a violation of the Act or this regulation, institute regulatory action in accordance with the requirements set forth in Section VIII of this regulation.

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(4) The Department may refer any complaints to the Office of the South Carolina Attorney General for investigation or other enforcement action in accordance with Section 38-3-110 of the Code of Laws of South Carolina 1976, as amended.

### Section VI. Confidentiality

The Department may report on its activities relating to the implementation of the Act and this regulation in compliance with the confidentiality requirements set forth in the Act and this regulation.

### Section VII. Transition of Licensing Status

A. The Director or his designee shall publish by order or bulletin the plan and timeframe for transitioning licenses from the third-party administrator license to the pharmacy benefits manager license.

B. Pharmacy benefits managers engaged exclusively or solely with administration of pharmacy benefits of self-funded health benefit plans in this State shall comply with the registration requirements of Chapter 51 of Title 38 of the Code of Laws of South Carolina 1976, as amended. For pharmacy benefits managers engaged in the administration of pharmacy benefits for both fully insured health benefits plans and self-funded health plans, a pharmacy benefits manager must comply with the Act and this regulation with respect to the provisions that apply to its fully insured health benefits plans.

### Section VIII. External Review

#### A. Application of This Section

(1) This section applies to external review of denials by pharmacy benefit managers (PBMs) of internal appeals of provider reimbursements and appeals of recoupments arising out of pharmacy audits. The Director or his designee may delegate the review and resolution of a pharmacy's appeal under this paragraph to an independent review organization (IRO), and any decision by the IRO shall have the same force and effect as a decision by the Director.

(2) A contracted pharmacy that receives a provider's reimbursement for a drug subject to maximum allowable cost pricing that is less than the net amount that the network provider paid to the suppliers of the drug shall have the right, after denial of an internal appeal, to appeal the decision of the PBM to the Director for an external review.

(3) Any pharmacy that believes recoupment amounts arising out of a PBM's final audit report were calculated in violation of the Code shall have the right to appeal the recoupment to the Director or his designee for an external review.

#### B. Requests for External Review

(1) An appeal filed pursuant to Section (A) of this regulation must:

(a) Be submitted electronically on a form made available by the Department on its website within 60 calendar days of the pharmacy's receipt of the PBM's final determination resolving the pharmacy's initial appeal or within 30 calendar days of the pharmacy's receipt of the PBM's final audit report; unless a different timeframe is approved in writing pursuant to subsection (2) of this regulation.

(b) Contain a summary of:

(i) The grounds of the appeal to the Director;

(ii) The relief requested by the pharmacy; and

(iii) The basis on which the pharmacy believes it is due the relief;

(c) Include a copy of the written decision rendered by the PBM;

(d) Contain a copy of the invoice(s) showing the pharmacy's purchase price for the drug or medical product or device at issue, if applicable;

(e) Contain a list of all discounts, price concessions, rebates or other reductions, excluding cash discounts, that were, or should have been, reported to the PBM including supporting documentation for each discount, price concession, rebate or other reduction, if applicable;

(f) Contain a certification by the applicant that all information submitted is true and accurate to the best of the applicant's knowledge; and

(g) Provide any other documentation or information requested by the director or his designee regarding the pharmacy's appeal.

(2) A pharmacy is not entitled to an external review of an appeal denial until the pharmacy has exhausted the PBM's internal appeal process.

(3) Within 7 business days from the date a request for an external review is filed or the date all information requested by the Director or his designee has been received, the Director or his designee shall:

(a) Assign an independent review organization from the list of approved independent review organizations compiled and maintained pursuant to Section E of this regulation to conduct an external review, and send the documents and any information considered in making the adverse determination to the independent review organization; or

(b) Inform the pharmacy in writing that the request does not meet the criteria for external review pursuant to this regulation and include the reason for nonacceptance.

(4) Within 7 business days after the independent review organization's receipt from the Director or his designee of the request for external review, the independent review organization shall determine whether all the information, certifications, and forms required to process the external review have been provided. The independent review organization shall immediately notify the pharmacy provider and/or Pharmacy Benefits Manager in writing if additional information is required.

(5) If the request for an external review is not:

(a) complete, the independent review organization shall inform the pharmacy provider what information or materials are needed to make the request complete; or

(b) accepted for external review, the independent review organization shall inform the pharmacy and the PBM in writing of the reasons for its nonacceptance.

(6) If a request for external review is accepted for external review, the independent review organization shall notify the PBM and the pharmacy.

(7) Upon receipt of the request for external review, the independent review organization shall render a decision within 30 days unless a written extension is granted by the Director or his designee

#### C. External Review Findings

(1) If the independent review organization determines the pharmacy benefits manager reimbursed a pharmacy or pharmacist in an amount inconsistent with the provisions of this Regulation and Section 38-71-2230 *et seq.*, the pharmacy benefit manager must

(a) Promptly make the change in the reimbursement rate effective as of the date the external review is resolved;

(b) Permit the appealing pharmacy or pharmacist to reverse and rebill the claim in question;

(c) Reimburse the pharmacy the amount of the filing fee; and

(d) Promptly make the change effective for each similarly situated pharmacy as defined by the payor subject to the Maximum Allowable Cost List effective as of the date the external review is resolved.

(2) If the independent review organization determines the recoupments of any funds disputed on the basis of an audit were calculated in violation of 38-71-1810 *et seq.*, then the pharmacy benefit manager must promptly refund any amounts due to the responsible party as contractually agreed upon by the parties in the audit and the PBM must reimburse the pharmacy the amount of the filing fee.

(3) An external review decision is binding on the pharmacy benefit manager and the appealing pharmacy or pharmacist. An appealing pharmacy or pharmacist may not file a subsequent request for an external review involving the same type of prescription drug unless there is an update to the reimbursement metric that would change the circumstances of the pharmacy's or pharmacist's reimbursement.

(4) The pharmacy benefits manager must pay for all costs related to the external review except for the initial filing fee if not reimbursable by the PBM under subsections (C)(1) or (2) of this regulation.

(5) The filing fee associated with a pharmacist's request for an external review is to be retained by the department for administration of Chapter 71. This filing fee shall be set by the department and published on its website.

(6) If the Director determines the pharmacy or pharmacist has abused the external review process, he may require the pharmacy or pharmacist to pay for costs related to the external review.

#### D. Confidentiality

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The information or data acquired during an appeal pursuant to this section is considered proprietary and confidential and is not subject to the South Carolina Freedom of Information Act.

### E. Approval of Independent Review Organizations

(1) The Director or his designee shall approve independent review organizations eligible to be assigned to conduct external reviews to ensure that an independent review organization satisfies the minimum qualifications established under subsection (F) of this regulation.

(2) The Director or his designee shall develop an application form for initially approving and for reapproving independent review organizations to conduct external reviews.

(3)(a) An independent review organization wishing to be approved to conduct external reviews under this regulation shall submit the application form and include with the form all documentation and information necessary for the Director or his designee to determine if the independent review organization satisfies the minimum qualifications established under subsection (F) of this regulation.

(b) The Director or his designee may charge an application fee that independent review organizations shall submit to the Director or his designee with an application for approval and reapproval.

(4)(a) Except as provided in item (2), an approval is effective for two years.

(b) The independent review organization must notify the Director or his designee of any material changes in qualifications, including removal or loss of accreditation by a nationally recognized private accrediting entity, approved by the Director or his designee pursuant to this subsection. Whenever the Director or his designee determines that an independent review organization no longer satisfies the minimum requirements established under subsection (F) of this regulation or has violated a provision of this regulation, the Director or his designee shall terminate the approval of the independent review organization and remove the independent review organization from the list of independent review organizations approved to conduct external reviews under this regulation that is maintained by the Director or his designee.

(5) An independent review organization accredited by a nationally recognized private accrediting entity with established and maintained standards for independent review organizations that meet the minimum qualifications established pursuant to subsection (F) of this regulation, which accrediting entity has been approved by the director or his designee, may be deemed to meet the minimum qualification requirements set forth in subsection (F) of this regulation.

(6) The Director or his designee shall maintain and periodically update a list of approved independent review organizations and approved nationally recognized private accrediting entities.

### F. Standards for Approval of Independent Review Organizations

(1) To be approved to conduct external reviews, an independent review organization shall have and maintain written policies and procedures that govern all aspects of the external review process that include, at a minimum:

(a) a quality assurance mechanism in place that ensures:

(i) that external reviews are conducted within the specified time frames and required notices are provided in a timely manner;

(ii) the selection of qualified and impartial non-clinical and clinical peer reviewers to conduct external reviews on behalf of the independent review organization and suitable matching of reviewers to specific cases;

(iii) the confidentiality of medical and treatment records and clinical and non-clinical review criteria; and

(iv) that any person employed by or under contract with the independent review organization adheres to the requirements of this regulation;

(b) a toll-free telephone service to receive information on a 24-hour-day, 7-day-a-week basis related to external reviews that is capable of accepting, recording, or providing appropriate instruction to incoming telephone callers during other than normal business hours; and

(c) agree to maintain and provide to the director or his designee the information set out in Subsection H.

(2) All non-clinical peer reviewers assigned by an independent review organization to conduct external reviews that involve non-clinical judgment must have appropriate qualifications in routine business practices, such as audits, accounting, provider reimbursements, or pharmacy reimbursements. All clinical peer reviewers assigned by an independent review organization to conduct external reviews that involve clinical judgment must be appropriate health care providers and include a pharmacist.

(3) An independent review organization may not own or control, be a subsidiary of or in any way be owned or controlled by, or exercise control with a PBM, health benefit plan, or a national, state, or local trade association of health benefit plans, PBMs, pharmacy or health care providers.

(4) In addition to the requirements set forth in subsections (F)(1),(2),and (3), to be approved to conduct an external review of a specified case, neither the independent review organization selected to conduct the external review nor any non-clinical or clinical peer reviewer assigned by the independent review organization to conduct the external review may have a material professional, familial, or financial conflict of interest with:

- (a) the PBM that is the subject of the external review;
- (b) the pharmacy or the covered person whose treatment is the subject of the external review;
- (c) any officer, director, or management employee of the PBM that is the subject of the external review;
- (d) the developer, wholesaler, or manufacturer of the principal drug, device, procedure, or other therapy whose prescription is the subject of the external review.

#### G. Liability of Independent Review Organizations and Personnel

No independent review organization, or employee, officer, or director of an independent review organization or health care professional who furnishes services to an independent review organization is liable to any person for any acts or omissions arising out of or related to an external review conducted pursuant to this regulation, except for cases of willful and intentional misconduct.

#### H. External Review; Written Records; Reports

(1)(a) An independent review organization assigned to conduct an external review shall maintain written records in the aggregate and by health carrier on all requests for external review for which it conducted an external review during a calendar year and submit a report to the director or his designee, as required under item (b).

(b) Each independent review organization required to maintain written records on all requests for external review pursuant to item (a) for which it was assigned to conduct an external review shall submit to the director or his designee, no later than March first of each year and upon request by the director or his designee, a report in the format specified by the director or his designee.

(2) The report shall include in the aggregate and for each health carrier and its affiliated PBM:

- (a) the total number of requests for external review and the manner in which they were resolved;
- (b) the average length of time for resolution;
- (c) a summary of the types of coverages or cases for which an external review was sought, as provided in the format required by the director or his designee; and
- (d) any other information the director or his designee may request or require.

(3) The independent review organization shall retain the written records required pursuant to this subsection for at least three years.

(4) The director or his designee shall make the reports required in this section available to any person for inspection and copying upon request.

#### I. PBM to Inform Pharmacy of Rights Related to External Review

(1) Each PBM shall include in the provider agreement or pharmacy manual a written notice to the pharmacy including a description of the external review procedures. This written notice shall also be provided to the pharmacy following a denied internal appeal and a denied recoupment.

(2) The description required under subsection (1) shall include a statement of the right of the pharmacy to contact the director or his designee for assistance. The statement shall include the telephone number, email address and mailing address of the director or his designee.

### Section IX. Penalties

Violations of this regulation shall be subject to the penalties set forth in Section 38-2-10 through 38-2-30 of the Code of Laws of South Carolina 1976, as amended.

### Section X. Severability

Any section or provision of this regulation held by a court to be invalid or unconstitutional shall be considered severable and will not affect the validity of any other section or provision of this regulation.



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### Section XI. Conflict

If any provision of this regulation is inconsistent with the Act, the provisions of the Act control.

### **Fiscal Impact Statement:**

The Department of Insurance estimates that the costs incurred by the State and its political subdivisions in complying with the proposed PBM regulations supporting recent statutory amendments will be approximately \$668,907.

### **Statement of Rationale:**

These amendments are made to ensure consistency between the regulation and changes that were made to the PBM laws during the 2023 Legislative Session.

Document No. 5241  
**DEPARTMENT OF INSURANCE**  
CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-110, 38-3-110, 38-71-2200, and 38-71-2210, et seq.

69-78. Pharmacy Services Administrative Organizations. (New)

### **Synopsis:**

The Department is proposing to add Regulation 69-78 to outline the new requirement regarding licensure of Pharmacy Services Administrative Organizations with the Department of Insurance. This regulation supports Section 38-71-2210, et seq. which was added during the 2023 legislative session and outlines the process for these companies to apply for licensure with the Department.

The Notice of Drafting was published in the *State Register* on July 28, 2023.

### **Instructions:**

Please print the regulation as shown below.

### **Text:**

69-78. Pharmacy Services Administrative Organizations.

#### Section I. Purpose

The purpose of this regulation is to implement Act No. 30 of 2023 (“the Act”) regarding Pharmacy Services Administrative Organizations (“PSAOs”) and to provide licensing, reporting and activity standards for PSAOs.

#### Section II. Licensure Requirements

A. Initial License and Renewal. On or after January 1, 2024, a PSAO seeking to do business in SC shall apply for a license on a form and in accordance with a licensing schedule prescribed by the Director or his designee. The terms “Director” and “designee” have the meaning set forth in Section 38-1-20 of the Code of Laws of South Carolina 1976, as amended.

B. The initial licensing schedule shall be set by bulletin or order of the Director. In 2024, and thereafter, a PSAO license shall be renewed annually no later than March 1 of each year.

C. Each application for a license shall be certified by an officer or authorized representative of the applicant and shall contain a statement that certifies the PSAO is in compliance with Section 38-71-2310 et seq. of the Code of Laws of South Carolina 1976, as amended. All proprietary information submitted by the PSAO under Section II of this regulation shall be considered confidential under Sections 38-71-2340 and 30-4-40 of the Code of Laws of South Carolina 1976, as amended.

D. The PSAO shall provide as part of the application for licensure the following:

- (1) A non-refundable filing fee of \$1,000 for initial licensure and \$500 for renewal licenses;
- (2) A copy of the basic organizational document of the PSAO such as the articles of incorporation, articles of association, partnership agreement, trust agreement or other applicable documents, and all amendments thereto;
- (3) A copy of the bylaws, organizational or similar document(s), if any, regulating the conduct or the internal affairs of the applicant;
- (4) A copy of the PSAO's provider manual and written agreement(s) entered into with pharmacists or pharmacies;
- (5) For the two preceding calendar years, a listing of pharmacy providers with which the PSAO was contracted in this State to perform services;
- (6) The relevant documentation, such as a policies and procedures manual, that demonstrates the PSAO has adopted processes to ensure compliance with the requirements in Section 38-71-2330 of the Code of Laws of South Carolina 1976, as amended;
- (7) A certified statement that indicates whether the applicant or officer with management or control:
  - (a) has been refused or denied a registration, license or certification to act as or provide the services of a PSAO in any state, providing specific details separately for each refusal or denial, if any, including the date, nature and disposition of the action; and
  - (b) has had any registration, license or certification to act as or provide the services of a PSAO suspended, revoked or nonrenewed for any reason by any state or federal entity, providing specific details separately for each such suspension, revocation or nonrenewal, if any, including the date, nature and disposition of the action, and attaching a copy of any relevant final order or similar document imposing the suspension, revocation or nonrenewal;
- (8) A description of whether the applicant has had a business relationship with a- pharmacy or pharmacist terminated for any fraudulent or illegal activities in connection with the administration of a pharmacy benefits plan (if so, attach specific details separately explaining this termination, including the date, and nature of the termination);
- (9) Has an officer with management or control of the PSAO been convicted of a felony or violated any of the requirements of state law applicable to PSAOs; and
- (10) Any other relevant information deemed necessary by the Director or his designee to evaluate the application for licensure or compliance with the requirements of the Act and this regulation.

E. Review Process

(1) Initial and Renewal License Applications

For initial and renewal license applications, the Director or his designee shall review the application under Section II.D of this regulation, and may:

- (a) approve the application and issue the applicant a PSAO license; or
- (b) notify the applicant, in writing, that the application is incomplete and request additional information to complete the review; and, if the missing or requested information is not received within thirty (30) calendar days from the date of the notification, the Director or his designee may deny the application; or
- (c) deny the application; and
  - (i) provide written notice to the applicant that the application has been denied stating or explaining the basis of the denial; and
  - (ii) advise the applicant that it may appeal the denial by requesting a hearing in accordance with Section 38-3-210 of the Code of Laws of South Carolina 1976, as amended, before the South Carolina Administrative Law Court.

(2) Standards of Review

(a) The Director or his designee shall deny an initial or renewal application for licensure for the following reasons:

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(i) the PSAO operates, or proposes to operate, in a hazardous condition and the services it administers, or proposes to administer, for a pharmacist or pharmacy in this State may be hazardous to the public; or

(ii) the PSAO has violated the requirements of the Act, this regulation or other applicable South Carolina law; or

(iii) the PSAO has failed to timely submit information to complete review of the application under Section II of this regulation.

(b) In lieu of a denial of a renewal application, the Director or his designee may permit the PSAO to submit to the Director or his designee a corrective action plan to cure or correct deficiencies falling under Section II of this regulation, impose an administrative penalty under Section 38-2-10 *et seq.* of the Code of Laws of South Carolina, 1976 as amended, or both.

### Section III. Contract Review

#### A. Prohibited Contract Language

No contract entered into by a PSAO shall contain language in violation of Sections 38-71-2310 *et seq.* of the Code of Laws of South Carolina 1976, as amended or other applicable provision of South Carolina law.

#### B. Waiver Prohibited

The prohibitions set forth Sections 38-71-2310 *et seq.* of the Code of Laws of South Carolina 1976, as amended cannot be waived by contract.

### Section IV. Examinations

Pursuant to Section 38-71-2340 of the Code of Laws of South Carolina 1976, as amended, the Director or his designee may examine the affairs of a PSAO for compliance with the requirements of the Act, applicable South Carolina law or requirements of this regulation as often as he deems appropriate, but not less frequently than once every five years. The PSAO must pay the charges incurred in the examination, including the expenses of the director or his designee and the expenses and compensation of his examiners and assistants. The information or data acquired during an examination pursuant to Section 38-71-2340 is considered proprietary and confidential and is not subject to the South Carolina Freedom of Information Act.

### Section V. Record Keeping Requirements

A. PSAOs shall maintain a record keeping system that shall track a detailed breakdown of the prescription numbers, amounts, and contractual basis for each recoupment and regular updates on the status of appeals for a period of five years.

B. A request under this Subsection shall be considered a special report pursuant to Section 38-13-160 of the South Carolina Code of Laws 1976, as amended, and all information submitted in the response shall be confidential. The requirements of this Subsection shall apply for appeals or challenges beginning with the first quarter of 2024.

#### C. PSAO Complaints.

(1) The PSAO shall designate the name, address, and phone number, including an electronic mail contact, of the organization which shall be responsible for responding to the Department for complaints the Department has received. The PSAO shall be subject to Section 38-13-70 of the Code of Laws of South Carolina 1976, as amended related to the time period for a response to the Department.

(2) The Department shall review any complaints, and upon determination of a violation of the Act or this regulation, institute regulatory action in accordance with the requirements set forth in Section VII of this regulation.

### Section VI. Confidentiality

The Department may report on its activities relating to the implementation of the Act and this regulation in compliance with the confidentiality requirements set forth in the Act and this regulation.

Section VII. Penalties

Violations of this regulation shall be subject to the penalties set forth in Section 38-2-10 through 38-2-30 of the Code of Laws of South Carolina 1976, as amended.

Section VIII. Severability

Any section or provision of this regulation held by a court to be invalid or unconstitutional shall be considered severable and will not affect the validity of any other section or provision of this regulation.

Section IX. Conflict

If any provision of this regulation is inconsistent with the Act, the provisions of the Act control.

**Fiscal Impact Statement:**

The Department of Insurance estimates that the costs incurred by the State and its political subdivisions in complying with the proposed PBM regulations supporting recent statutory amendments will be approximately \$668,907.

**Statement of Rationale:**

These regulations are added to provide licensing, reporting and activity standards for PSAOs.

Document No. 5233  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
 CHAPTER 10  
 Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-47-650, and 40-47-800

10-24. Board of Medical Examiners.

**Synopsis:**

The South Carolina Department of Labor, Licensing and Regulation proposes to amend the fee schedule for the Board of Medical Examiners, whose fees appear in Chapter 10 of the South Carolina Code of Regulations.

The Notice of Drafting was published in the *State Register* on July 28, 2023.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

10-24. Board of Medical Examiners.

The Board shall charge the following fees:

(A)	Physicians:		
(1)	Academic License—		\$150
	(a)	Renewal—	\$150
(2)	Limited License-		\$75 (6 mo.), \$150 (1 year)

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	(a)	Renewal—	\$75 (6 mo.), \$150 (1 year)
	(b)	14 days—	\$75
(3)		Permanent License—	\$580
	(a)	Biennial Renewal—	\$155
	(b)	Reactivation—	\$460
(4)		Special Volunteer Limited License—	no fee
	(a)	Renewal—	no fee
(5)		Temporary License Extension—	\$75
(B)		Acupuncture—	\$111
(1)		Biennial Renewal—	\$145
(2)		Late Renewal Fee	\$50
(3)		Reactivation Fee	\$111
(C)		Anesthesiologist’s Assistant—	\$300
(1)		Biennial Renewal—	\$295
(D)		Physician Assistant—	\$120
(1)		Biennial Renewal—	\$45
(2)		Limited License Application—	\$25
(3)		Prescriptive Authority—	\$40
		(No fee for expanded prescriptive authority, Schedule III-V drugs)	
(4)		Reactivation Application	\$160
(E)		Respiratory Care Practitioner	
(1)		Application - Permanent License—	\$120
(2)		Biennial Renewal-Permanent License—	\$75
(3)		Late Renewal Fee	\$75
(4)		Limited License—	\$40
(5)		Limited License Renewal—	\$40
(6)		Update License Application—	\$80
(7)		Reactivation-Permanent License—	\$160
(8)		Exemption for Ventilation by Non-RCP	\$50
(F)		Registered Cardiovascular Invasive Specialist	
(1)		Initial Application	\$160
(2)		Biennial Renewal	\$80
(G)		Athletic Trainers	
(1)		License	\$50
(2)		Biennial License Renewal	\$40
(3)		Renewal Late Fee	\$15
(4)		Restore License	\$100
(5)		Duplicate Licenses and Identification License cards	\$7
(H)		Other fees	
(1)		Verification of License—	\$5
(2)		Wall Certificate-Duplicate—	\$25
(3)		Duplicate wallet cards	\$10
(4)		Name change—	no fee
(5)		Licensure Listing—	\$10

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

The updated regulation will comport with the statutory requirements set forth in Act No. 77 of 2023, which transferred regulatory authority of athletic trainers from DHEC to the Board of Medical Examiners within LLR. S.C. Code Section 40-47-1760 in the new law provides that the Board may levy fees in an amount sufficient to administer the requirements of this chapter. This law is consistent with South Carolina Code Section 40-1-50(D) which requires that the Agency assess, collect, and adjust fees on behalf of each board biennially to ensure that fees are sufficient but not excessive to cover the expenses, including the total of the direct and indirect costs to the State, for the operations of each respective board. The proposed regulation is reasonable in that the Board is proposing to charge the same fees athletic trainers are currently paying for certification through DHEC, *see* R.61-96. The Board is also adding reactivation and late renewal fees for other licensees of the Board, authorized by statute, that did not appear in the regulation.

Document No. 5243  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
 CHAPTER 10  
 Statutory Authority: 1976 Code Sections 40-1-50 and 40-1-70

10-7. Building Codes Council.

**Synopsis:**

The South Carolina Department of Labor, Licensing and Regulation proposes to amend the fee schedule for the Building Codes Council, whose fees appear in Chapter 10 of the South Carolina Code of Regulations.

The Notice of Drafting was published in the *State Register* on July 28, 2023.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

10-7. Building Codes Council.

The Council shall charge the following fees:

A.	Code Enforcement Officers and Special Inspectors Registration Application (Initial and Renewal):	\$50 biennially
	Late Renewal Fee (received after June 30):	\$50 in addition to the application fee
B.	Modular Building Program Schedule of Fees:	
	1. Modular Building Systems final plan review:	\$200
	2. Field Technical Services:	
	a. In-state:	\$20 per hour
	b. Out-of-state:	\$20 per hour plus expenses
	3. Label fees:	\$45
	4. Modular Building Manufacturer License Application (Initial and Renewal):	
	a. 24 units or less per year:	\$500 biennially
	b. Producing 25 units or more:	\$1,500 biennially

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5.	Modular Building Manufacturer's Representative Application (Initial and Renewal):	\$200 biennially
6.	Approved Inspection Agency Application (Initial and Renewal):	\$200 biennially
7.	Approved Modular Building Recertification Fee:	\$200

### Fiscal Impact Statement:

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

### Statement of Rationale:

The updated regulations will simplify the fee structure for the Building Codes Council. First, separate fees for each component of the Modular Building System plan review are deleted and replaced with one fee for the final plan review. The amount of the fee, \$200, is the same amount as the existing fee for "Total of all systems." Second, separate fees for modular system labels are deleted and one fee, \$45, is offered. Third, fees for Modular Building Manufacturer, Manufacturer's Representative and Approved Inspection Agency are all clarified to apply to both initial and renewal applications. Finally, initial application and renewal fees for Special Inspectors are added to the fee schedule.

Document No. 5248  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BUILDING CODES COUNCIL**  
CHAPTER 8

Statutory Authority: 1976 Code Sections 6-8-20, 6-9-40, 6-9-55, 6-9-63, 10-5-250, 23-43-40, 40-1-50, and 40-1-70

- 8-100. Authority.
- 8-105. Definitions.
- 8-110. Registration Required.
- 8-115. Classifications and Qualifications for Registration.
- 8-120. Maximum Time for Certification.
- 8-125. Application Required.
- 8-135. Exemptions.
- 8-140. Renewal.
- 8-145. Fees.
- 8-150. Continuing Education.
- 8-160. Comity.
- 8-165. Conflict of Interest.
- 8-170. Denial, Suspension and Revocation.
- 8-175. Preferring of Charges and Hearing.
- 8-180. Appeal From Action of Council.
- 8-185. Registration Reinstatement and Replacement.
- 8-205. South Carolina Building Codes Council.
- 8-210.1. Purpose.
- 8-215. Definitions.
- 8-220. Powers, Duties, and Responsibilities of Council.
- 8-225. Duties and Responsibilities of Department.
- 8-230. Council Officers.
- 8-235. Council Meetings.
- 8-236. Building Codes Adopted.

- 8-240. Building Codes Modification Procedure.
- 8-245. Qualifications for Local Modifications to Building Codes.
- 8-246. Study Committee.
- 8-247. Public Notice.
- 8-248. Study Committee Meetings.
- 8-250. Energy Standards Variation Procedure.
- 8-255. Energy Standards Appeal Procedure.
- 8-260. Administration of Modular Act.
- 8-261. Administration of Accessibility Act.
- 8-270. Injunctive Relief.
- 8-275. Penalties.
- 8-600. The South Carolina Modular Building Construction Act.
- 8-601. Purpose.
- 8-602. Definitions.
- 8-603. Council Duties and Responsibilities.
- 8-604. Adoption of Model Codes.
- 8-605. Enforcement Authority.
- 8-606. Delegation of Inspection Authority; Approved Inspection Agency's Qualifications, Acceptance Requirements.
- 8-607. Approved Inspection Agency Authority.
- 8-608. Quality Control Procedures.
- 8-609. Change in Status, Alterations.
- 8-610. Alternate Methods and Materials.
- 8-611. Approved Inspection Agency: Inspection.
- 8-612. Reciprocity.
- 8-613. Multiple Site Manufacturing.
- 8-614. Council Certification Label.
- 8-615. Certification Label Application and Issuance.
- 8-616. Certification Label Denial.
- 8-617. Removal of Certification Labels.
- 8-618. Schedule of Fees.
- 8-619. Appeal Procedures.
- 8-620. License Application Requirements.
- 8-621. Sale of Modular Buildings.
- 8-622. License Issued.
- 8-623. Security Requirement.
- 8-624. Duties and Responsibilities of Council.
- 8-625. Denial, Revocation or Suspension of License.
- 8-626. Erection.
- 8-627. Exemption.
- 8-628. Recertifying.
- 8-629. License Renewal. (New)
- 8-630. Damaged Units or Components. (New)

**Synopsis:**

The South Carolina Building Codes Council proposes to add to, amend and/or repeal certain sections of Chapter 8 of the Code of Regulations.

A Notice of Drafting was published in the *State Register* on June 23, 2023.

**Instructions:**



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Print the regulation as shown below. All other items remain unchanged.

### Text:

#### ARTICLE 1

#### REGISTRATION, FEES AND DISCIPLINARY PROCEDURE

##### 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 code organization in one or more building, system or component inspection disciplines.
6. "Building Code Enforcement" means administering a building inspection department, enforcement and/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 as or under the supervision of a building official. The term shall also apply to the process of reviewing plans, specifications, and other technical data, as well as inspection of buildings and structures.
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 one 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. "Provisional Registration" means a nonrenewable registration issued to a building code enforcement officer, who is training for certification required for employment or advancement.
13. "Recognized code organization" means any national code organization approved by the Council, which administers a testing and certification program specifically for building code enforcement officers or special inspectors.

14. “Registered/Registrant” means a person approved by Council to practice as a building code enforcement officer or special inspector.

15. “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 that can be constructed within the prescriptive requirements of the South Carolina Residential Code.

16. “Plans Examiner” means a person who performs plan reviews for building, plumbing, electrical or mechanical applications in accordance with the adopted building codes and as determined by the job description for the local jurisdiction for which employed or contracted.

17. “Building Codes Enforcement Officer” means a person registered by the Council as a building official, commercial inspector, residential inspector, plans examiner, or property maintenance inspector.

#### 8-110. Registration Required.

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

#### 8-115. Classifications and Qualifications for Registration.

A person applying for registration as a building code enforcement officer or special 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 one or more commercial inspector disciplines. An applicant may only practice in the discipline(s) for which they have been certified.

C. Residential Inspector-Certificates or examination records from a recognized code organization, indicating that the applicant has been certified in one or more of the residential building, electrical, plumbing and/or mechanical inspector disciplines. An applicant may only practice in the discipline(s) for which they have been certified.

D. Residential Plans Examiner-Certificate or examination record from a recognized code organization, indicating that the applicant has been certified in the residential building, electrical, plumbing and mechanical plans examiner discipline.

E. Commercial Plans Examiner-Certificates or examination records from a recognized code organization, indicating that the applicant has been certified in one or more of the commercial building, electrical, plumbing and/or mechanical plans examiner disciplines. An applicant may only practice in the discipline(s) for which they have been certified.

F. Property Maintenance Inspector-A certificate or examination record from a recognized code organization, indicating that the applicant has been certified in property maintenance.

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G. Provisional-Proof that the building code enforcement officer is presently employed or contracted 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.

H. Limited-Proof that the building code enforcement officer has been continuously employed by the same municipality or county since the effective date of the Act. All requirements for maintenance and renewal of registration apply to this classification.

I. 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, pursuant to Chapter 17 of the South Carolina Building Code.

### 8-120. Requirements for Provisional Certification.

#### A. Building Official

A person registered in the provisional classification of “Building Official” shall be under the direct supervision of the building official for the local jurisdiction for which contracted or employed or actively registered as a residential or commercial inspector or plan reviewer. If under the direct supervision of the building official, the provisional registrant must provide LLR with written fifteen (15) days’ notice when the supervisory relationship changes or terminates. Failure to provide such timely notice of a change or termination in the supervisory relationship may result in cancellation of the provisional certification.

A person registered in the provisional classification of Building Official shall obtain certification within the following time periods: one (1) certification, which is a prerequisite for classification as a certified building official, shall be completed within six (6) months of the issuance of the provisional registration. A second prerequisite for certification for the classification as a certified building official shall be completed within twelve (12) months of the issuance of the provisional registration. Any remaining prerequisite(s) for certification(s) for the classification as a certified building official shall be completed within twenty-four (24) months of the issuance of the provisional registration.

#### B. Other provisional classifications

A person registered in the following provisional classification shall obtain certification within the time stated.

1. 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.

2. Residential 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.

3. Plans Examiner - 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.

4. Property Maintenance Inspector - twelve (12) months.

C. If any of the times referenced above are not met for the completion of certification or for the completion of a prerequisite for certification, the provisional registration shall be lapsed and cancelled and cannot be

renewed. Any request for an extension of the provisional registration must be filed within thirty (30) days prior to the registration's expiration date and heard by the Council.

8-125. Application Required.

A. General requirements as to all registrants

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

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

At time of initial registration, renewal or reinstatement, the applicant must identify their employer(s). If employment changes during a registration cycle, the applicant/registrant must notify the Council and update their employment information within fifteen (15) days of such change.

If the application for registration is denied, the applicant may request a hearing before the Council to present additional information or demonstrate evidence of qualification.

B. Building code enforcement officers

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 or enforcement authority of the local jurisdiction for which the applicant is employed or contracted.

Application for reinstatement of a registration requires a current ICC certification.

C. Special inspectors

Application for reinstatement of a registration requires a current certification from a recognized code organization unless the applicant is an engineer-in-training and qualifies for registration pursuant to 8-135.

8-135. Requirements for Special Inspector Registration for Engineer-In-Training.

An engineer-in-training (EIT) seeking registration as a special inspector must meet the following requirements:

1. Verification of an EIT certification from the state where issued affirming that applicant has passed the NCEES Fundamentals of Engineering examination and met educational requirements; and

2. A signed affidavit from a South Carolina licensed professional engineer ("PE") attesting that Applicant has worked under the licensed PE's direct supervision for at least one (1) year in the category for which special registration is sought.

All special inspection reports prepared by an EIT registered with the Council as a special inspector shall be reviewed, signed, and sealed by the South Carolina licensed PE providing direct supervision of work performed by the EIT.

8-140. Renewal.

A. Registrations must be renewed biennially. If a renewal application is not received by the Council within sixty days after the July 1 expiration date, the registration shall be deemed lapsed and invalid.

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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 of the sixty-day grace period allowed in Section (A) may only be reinstated by application as a new registrant and evidence of meeting 24 continuing education hours.

E. Any person who continues to practice with a lapsed registration shall be deemed to have engaged in unlicensed practice and may be subject to discipline by the Council.

### 8-145. Fees.

The Council may charge fees as shown in South Carolina Code of Regulations Chapter 10-7 and on the South Carolina Building Codes Council website at <http://llr.sc.gov/POL/BCC/>.

### 8-150. Continuing Education.

(1) To qualify for registration renewal, a registrant must accumulate a minimum of twenty-four (24) hours per registration cycle of continuing education. The reporting period is from July 1 to June 30 of each odd numbered year and hours cannot be carried over to the next registration cycle.

(2) 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. One (1) hour of continuing education credit shall also be awarded for each ICC examination passed during the licensing cycle.

(3) For each registration cycle, a minimum of eighteen continuing education hours must be earned in technical topics. For each registration cycle, a maximum number of six hours may be earned in management, ethics, or other professional development type training.

(4) 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.

(5) Continuing education accrued to qualify for registration reinstatement shall not count towards the required continuing education for the new registration cycle.

(6) In order to receive reimbursement of continuing education costs from the Council, the registrant must submit by June 30 of each year a reimbursement request on a Council-approved form and meet the following requirements:

- A. Registrant must have an active registration.
  - B. The continuing education must be selected from a list of courses approved by the Council.
  - C. Registrant's participation in the continuing education must be approved by the Council prior to the course registration date.
    - 1. For approval requests received after the course registration date, the Council will only pay the advance registration fee. Registrant or jurisdiction shall be responsible for any additional or late fees.
    - 2. If the approval request exceeds the maximum payment per credit hour as established by the Council, registrant or jurisdiction shall be responsible for any costs in excess of the per-hour maximum.
  - D. The pre-approved continuing education course must be successfully completed by the registrant. If the course is not successfully completed by the registrant and was prepaid by the Council, then registrant or the jurisdiction must reimburse the Council for the prepaid fee.
  - E. The continuing education shall not exceed six credit and/or training hours per one calendar day.
  - F. The number of hours claimed for reimbursement for each year shall not exceed 12 credit hours.
  - G. If credit is claimed for passing an ICC examination(s), registrant must submit proof of the examination results.
- (7) For each registration cycle, a registrant may earn up to twelve (12) continuing education hours through Council approved self-pace courses.
- (8) Proof of continuing education compliance will be conducted by audit at the discretion of the Council.
- (9) The Council, by majority vote, may alter or waive any continuing education requirements during a state of emergency.
- (10) A registrant experiencing physical disability, illness or other extenuating circumstances may apply for waiver of continuing education requirements on a Council-approved form with supporting documentation. Such request for a waiver is subject to review and approval by the Council or its designated representative.

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.

A. Building Code Enforcement Officers.

No registered code enforcement officer shall be financially interested or employed by a business that is financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of any building or any part or system thereof, or in the making of plans or specifications therefor,

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that is within the regulatory authority of the local jurisdiction for which the registered code enforcement officer is employed, unless such officer is the owner of the building.

No registered building code enforcement officer 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.

### B. Special Inspectors.

A special inspector shall not engage in any activities that may conflict with their objective judgment and integrity, including but not limited to having a financial and/or other interest in the construction, installation, manufacture or maintenance of structures or components that they inspect.

### 8-170. Grounds for Disciplinary Action or Denial.

In addition to the grounds provided for in Section 40-1-110, the Council, upon a majority vote, may cancel, suspend, refuse, deny, revoke, or restrict a registration for any of the following reasons:

A. been convicted of a felony in any court of competent jurisdiction;

B. obtained certification or registration through fraud, deceit or perjury;

C. defrauded the public or attempted to do so;

D. demonstrates by act or omission, willful misconduct, gross negligence or gross incompetence in the performance of the practice of code enforcement;

E. material failure to meet code enforcement duties as evidenced by failure to note serious violations of any adopted code in the performance of an inspection or a material error or omission in an inspection report relating to compliance with any adopted code;

F. violated or aided or abetted any person in violation of any provision of the act or these regulations.

G. performed any code enforcement activity at a time when their registration was lapsed, inactive or suspended.

### 8-175. Investigations and Hearings.

Investigation of a complaint alleging a violation of Section 40-1-110 or S.C. Code Reg. 8-170 shall be conducted in accordance with Section 40-1-80.

Any hearing that is conducted as a result of an investigation must be conducted in accordance with Section 40-1-90.

After a hearing and a determination by the Council that one or more of the grounds for discipline exist, the Council may impose sanctions in accordance with Section 40-1-120.

### 8-180. Appeal From Action of Council.

Any person aggrieved by a final action of Council may appeal to the Administrative Law Court in accordance with Section 40-1-160.

### 8-185. Registration Replacement.

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

ARTICLE 2

ADMINISTRATION, PROPOSED MODIFICATIONS AND VARIATIONS, STATE ENERGY STANDARDS

(Statutory Authority: 1976 Code Section 6-9-63(E))

8-205. South Carolina Building Codes Council.

8-210.1. Purpose.

These regulations are intended to establish procedures for the operation of the South Carolina Building Codes Council and the application and administration of its authority under the Building Codes Act, the Modular Act and the Accessibility Act. It is further intended that these regulations establish a formal standard policy and specific criteria on which the Council will base its approval or disapproval of proposed modifications to building codes. It is also intended that these regulations establish a formal standard policy and specific criteria on which the Council will base its approval or disapproval of proposed modifications to or variations from the required state energy standards.

8-215. Additional Definitions.

In addition to the terms and words defined in Regulation 8-105, the following terms and words shall apply to these Regulations:

(1) "Accessibility Act" means the Construction of Public Buildings for Access by Persons With Disabilities Act, Chapter 5 of Title 10 of the Code of Laws of South Carolina, 1976, as amended.

(2) "Accessibility Committee" means the standing committee for the Council, as created by Chapter 5 of Title 10 of the Code of Laws of South Carolina, 1976, as amended.

(3) "Agency" means any division, department or section of state or federal government.

(4) "Building Codes Act" means the Building Codes Act, Chapter 9 of Title 6 of the Code of Laws of South Carolina, 1976, as amended.

(5) "Building Code Cycle" means the time period between the implementation dates of the Codes as adopted by the Council, but no greater than every four years.

(6) "Climatological" means the susceptibility of specific unusual reoccurring weather or atmospheric conditions for a local jurisdiction, including hurricanes, tornadoes, damaging wind, lightning, or floods due to rainfall.

(7) "Energy Standards" means the Building Energy Efficiency Standard Act, Chapter 10 of Title 6 of the Code of Laws of South Carolina, 1976, as amended.

(8) "Flood(ing)" means temporary inundation of normally dry land areas from the overflow of inland or tidal waters or from the unusual and rapid accumulation of runoff or surface waters by excessive rainfall, snow melt, wind storms or any combination of such conditions.

(9) "Geographical" means the geographic or topographic characteristics of a specific area or region.



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(10) “Geological” means the structure of a specific area or region of the earth’s surface.

(11) “Implementation Date” means the date, as established by Council, that one or more adopted building codes must be placed into effect for administration and enforcement by local jurisdictions.

(12) “Local Enforcement Agency” means an agency of a local jurisdiction with authority to make inspections of buildings and to enforce the laws and regulations enacted by the State, which establish standards and requirements applicable to the construction, alteration, repair and occupancy of buildings.

(13) “Local Jurisdiction” means any county, city, town, village or other political subdivision of the State of South Carolina.

(14) “Modification(s)” means the changing of any word, number, date, section or reference in either the text or appendix (if adopted) of any building code, regardless of whether the effect is more or less restrictive.

(15) “Modular Act” means the Modular Buildings Construction Act, Chapter 43 of Title 23 of the Code of Laws of South Carolina, 1976, as amended.

(16) “Physical” means the natural stable and unstable characteristics and conditions of the land area within a local jurisdiction, including topography, geography, geology, water table and seismic activity.

(17) “Professional Association” means an entity (1) with membership consisting of individuals directly involved in the use, application or enforcement of building codes; (2) that manufactures, tests or provides technical representation for materials, components or methods used in the construction industry; or (3) has a vested interest in any subject matter regulated by any of the Codes.

(18) “Study Committee” means the standing committee for the Council as created by Chapter 9 of Title 6 of the Code of Laws of South Carolina, 1976, as amended.

(19) “Variation(s)” means the changing of the Energy Standards or any building code in either the text or appendix (if adopted), the nature of which, would accept an alternate building material or alternate method of compliance.

### 8-220. Powers, Duties, and Responsibilities of Council.

(A) The Council shall clarify the various aspects and provision of the Building Codes Act, the Modular Act, the Accessibility Act and their corresponding regulations, as may be necessary to carry out their intended purposes.

(B) The Council shall review requests by local jurisdictions and professional associations, for modifications to the adopted building codes, as authorized by the Building Codes Act.

(C) The Council shall review requests by local enforcement agencies, for variations from the Energy Standards.

(D) The Council shall produce records of all its transactions and minutes of all its meetings, hearings and proceedings.

### 8-225. Duties and Responsibilities of Department.

(A) The Department shall provide the personnel to serve as staff for the Council. Such staff shall have the duty and responsibility to:

(1) Maintain an accurate and complete record of all meetings, hearings, proceedings, correspondence and technical work performed by and for Council;

(2) Make all records and documents of Council available for public inspection any time during normal working hours;

(3) Prepare and provide all information, documents and exhibits necessary for the Council agendas and meetings; and,

(4) Perform such other related tasks as may, from time to time, arise.

(B) The Department shall provide legal counsel for the Council.

8-230. Council Officers.

(A) The Council shall elect from its appointed members, a chairman and a vice-chairman.

(B) Election of officers shall occur during the first meeting of each calendar year. Elected officers shall assume office upon adjournment of the meeting at which the election occurs.

(C) The duties of each officer shall be as follows:

(1) Chairman - Preside over all meetings of the Council, call special meetings as the need may arise, authenticate by signature all licenses, resolutions, documents and other instruments of Council and perform such other duties as may fall within the jurisdiction of the office.

(2) Vice-chairman - Function as chairman in the absence of the chairman and perform such other duties as may fall within the jurisdiction of the office.

(D) Officers shall serve for a period of one year or until their successors are elected.

(E) Vacancies occurring in an officer's position shall be filled in the following manner.

(1) If, during the course of any unexpired term, the office of chairman is vacated, the vice-chairman shall, immediately and without any further action of Council, be named chairman and continue in that capacity until the next regular election.

(2) If, during the course of an unexpired term, the office of vice-chairman is vacated, the Council shall fill the vacancy by election during its next official meeting. The elected member shall assume office immediately and continue in that capacity until the next regular election.

8-235. Council Meetings.

(A) The Council must meet at least one time per year or at the call of the chairman. In addition, the Council must meet not less than one time per building code cycle for the purpose of reviewing modifications requested for the adopted building codes.

(B) All agenda items and supporting documentation shall be submitted to the Council staff not later than 14 calendar days prior to the meeting date. The agenda and meeting notice shall be delivered to each Council member not later than seven calendar days prior to the meeting date. The meeting notice shall contain the date, time and place the meeting will be held.

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(C) All meetings shall be open to the public. Notices designating the date, time and place of the meeting shall be posted at the offices of the Council, not later than 24 hours before the meeting starting time.

(D) Minutes of every meeting of Council shall be produced and distributed to each Council member. The minutes shall reflect the names of all persons in attendance, each item and action taken and all motions, seconds and votes made during the course of the meeting. All minutes shall be approved by motion, second and vote at a meeting of Council before they will be considered official. Only official minutes shall be made available to the general public. A copy of all official minutes of Council meetings shall be maintained in the offices of the Council and made available for public inspection during all normal working hours.

### 8-236. Building Codes Adopted.

(A) All building codes used within the state shall be adopted by the Council and enforced by local jurisdictions. The adoption process must follow the procedure established in the Building Codes Act.

(B) Administration and enforcement of the latest adopted edition of any building code must occur in all local jurisdictions on the implementation date established by the Council. All new construction, additions, renovations, repair or work of any kind, to any system, in a building or structure, for which a completed building permit application has been approved prior to the implementation date, will be allowed to be completed and must be inspected under the building codes in effect at the time the original building permit was issued.

(C) Local jurisdictions are prohibited from writing or publishing any other building codes in part or in whole.

(D) The appendices included with all building codes are not intended to be enforced unless specifically referenced in the texts of the codes or specifically included by name and letter designation at the time of adoption by Council.

(E) The provisions of the administration chapters for all building codes that concern the qualification, removal, dismissal, duties, responsibilities of, and the administrative procedures for all building officials, deputy building officials, chief inspectors, other inspectors, and assistants are not adopted by the Council. Council may adopt general provisions of the administration chapters, as necessary, to provide uniform application of the building codes throughout the state. Any general administrative provisions adopted by Council must apply to all local jurisdictions. In the absence of Council adoption, local jurisdictions may adopt any or all sections of the administration chapters for all building codes, or may establish administrative procedures for the operation of the local enforcement agency by ordinance. In either instance, however, general administrative provisions adopted by Council, if any, must apply.

### 8-240. Building Codes Modification Procedure.

(A) At least every four (4) years, the Council must adopt the latest edition of the nationally recognized codes as identified in S.C. Code Ann. § 6-9-50(A) with any modifications approved by the Council in accordance with statute and these regulations.

(B) At the outset of every Building Code Cycle, the Council shall appoint a Study Committee to review the latest editions of the nationally recognized codes as identified in S.C. Code Ann. § 6-9-50(A) and identify any code changes and their potential impact on South Carolina if adopted by the Council.

(C) During each Building Code Cycle, the Council must file and publish in the State Register a notice of intention to review the latest edition of the nationally recognized codes and provide a 180-day comment period for local jurisdictions and professional associations to submit proposed modifications to the codes.

(D) All proposed modifications must be submitted during the 180-day comment period in order to be considered. The only exceptions are emergency or local modifications to the Codes which may be considered by the Council at any time.

(E) During the 180-day comment period, the Study Committee shall meet as needed to review any proposed modifications to the codes and hear testimony from interested persons on the proposed modifications.

(F) A request for a proposed statewide modification:

(1) May be accepted from (a) an official representative of the local jurisdiction proposing the modification:  
or,

(b) an official representative of the professional association proposing the modification.

(2) Must include:

(a) A cover letter from the local jurisdiction or professional association stating that the individual is authorized to present the proposed amendment; and,

(b) Verification that the proposed amendment has the support of at least a majority of the members of the board or council governing the local jurisdiction or professional association proposing the modification; and,

(c) A completed Code Modification Form (provided by the Council); and,

(d) Sufficient test information, studies, data or other documentation that would be necessary to fully explain and justify the proposed amendment; and,

(e) A list of the persons with their titles and affiliations, known at the time of submittal, who will provide testimony in favor of the amendment.

(G) Each request for modification must be submitted separately.

(H) A local jurisdiction or professional association shall not propose a modification which will amend, suspend, eliminate or supersede an existing statute, policy, rule or regulation of any state or federal agency.

(I) After the 180-day comment period, the Council shall meet to adopt the latest edition of the nationally recognized codes and vote to approve or disapprove all modification requests.

(J) For the purposes of these regulations, a moratorium on enforcement of any section of any building code ordered by the Council, shall be considered a statewide modification.

(K) All statewide modifications made to any of the building codes for the building code cycle, must be approved by Council prior to the established implementation date. All such modifications shall be mandatory for all jurisdictions in the state.

#### 8-245. Qualifications for Local Modifications to Building Codes.

(A) The Council shall review and may grant local modifications to any of the Codes by the request of a local jurisdiction, for application strictly within that jurisdiction, when it determines that the changes are required to meet local needs due to physical or climatological conditions. For the purpose of this section, the words "Physical" and "Climatological" shall have only the meanings as defined in these regulations.

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(B) A request for a local building code modification must be previously approved by the governing body of the local jurisdiction making the request before it may be considered by the Council.

(C) Proposed local modifications of building codes shall not take effect in any local jurisdiction until after they have first been reviewed and approved by the Council.

(D) Requests for local modifications may be considered by Council or may be referred by Council to the Study Committee for review and recommendation before action by the Council.

(E) In order to qualify for a local modification to any of the Codes, the local jurisdiction has the burden of establishing the following:

(1) The requested modification is either physical or climatological in nature.

(a) To qualify by physical basis, a jurisdiction must demonstrate that it possesses unique physical qualities, such as unusual characteristics or composition of soils, unusual geological conditions (including earthquakes), unusual geographical conditions, unusually varying or extreme ranges in the topography of the land or any other natural condition.

(b) To qualify by climatological basis, a jurisdiction must demonstrate that it experiences weather conditions which are unusual to, confined to, occurring on a regular or seasonal cycle or determined through research or past experiences to have a high probability of reoccurrence within its area. Climatological conditions may include the known occurrence of hurricanes, tornadoes, damaging wind, snow, flooding caused by rainfall, lightning or any other form of natural climate related phenomenon.

(2) How the section(s) of the Codes at issue do not meet the local jurisdiction's needs as a result of the physical or climatological condition.

(3) The manner in which the requested modification will address the physical or climatological condition.

(4) The manner in which the requested modification will provide a reasonable standard of public health, safety, and welfare.

8-246. Study Committee.

(A) Upon publication of the latest editions of the nationally-recognized codes as identified in S.C. Code Ann. § 6-9-50(A), the Study Committee may take up to a year to perform a technical analysis of changes to the building codes, including taking classes, at the expense of Council, which address the new code changes.

(B) During the Building Code Cycle, the Study Committee will also consider any proposed statewide modifications to the latest addition of the nationally-recognized codes and report its findings and recommendations to the Council.

(C) The Committee will consist of seven core members and seven alternates, appointed by the Council for the duration of the code cycle. Appointments of the core members and alternates must occur during the first Council meeting of the year coinciding with a new building code cycle. Core members and alternates must be active within the specific segment of the industry that they are representing on the Study Committee for the length of their tenure and must be South Carolina residents. The core membership of the Study Committee must consist of:

(1) A registered code enforcement officer, building official, or multi-trades inspector;

(2) A state licensed home builder;

- (3) A state licensed general contractor;
- (4) A state licensed architect;
- (5) A state licensed engineer;
- (6) A fire code official; and
- (7) A state licensed contractor representing the mechanical trades.

An alternate acts in the place and on behalf of, the core member in the instance of an absence or recusal.

(D) The Study Committee Chair may request the assistance of subject matter experts from a pool of volunteers on an as-needed basis when reviewing and making recommendations on statewide proposed modifications. The subject matter expert volunteers do not have any voting rights on the Study Committee.

(E) The Study Committee members shall elect a chair and vice chair as the first order of business at the first Study Committee meeting of each new building code cycle. The Study Committee chair and vice chair shall serve for the length of the building code cycle. The chair shall preside over all Study Committee meetings and be available at public meetings of the Council, to clarify or augment the Study Committees recommendations. In the absence or recusal of the chair, the vice chair shall assume all duties of and act on behalf of the chair. If for any reason the chair leaves the Study Committee before expiration of his or her term, the vice chair shall serve as the chair for the duration of the original appointment. The Study Committee shall then elect a new vice chair.

(F) If a core member leaves the Study Committee before expiration of his or her term, the alternate for that core member shall serve for the duration of the original appointment. The Council shall then appoint a new alternate member from the appropriate segment of the construction industry.

(G) At no time may a specific segment of the construction industry be represented on the Study Committee by more than one core or alternate member.

8-247. Repealed.

8-248. Study Committee Meetings.

(A) The Study Committee must hold at least one public meeting per Building Code Cycle. All Study Committee meetings shall be at the call of the chairman of the Council and must be open to the public. All deliberations and actions taken by the Study Committee must be done in public session. For the purpose of conducting meetings and rendering recommendations, a quorum must be present.

(B) The date, time and place for all Study Committee meetings must be made public in the same manner as required for the Council meetings.

(C) Proposed amendments with all supporting documentation must be submitted to the Council's staff a minimum of ten working days prior to the meeting date. A meeting agenda must be published a minimum of five working days prior to the meeting date, after which time additions shall not be made to the agenda.

(D) The Study Committee must review all proposed modifications and the pertinent supporting documentation and testimony as necessary to reach a decision. If the Study Committee cannot reach a decision based on the documentation and testimony provided, the proposed modification may be carried over to a future meeting until a decision is reached.

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(E) A report of the Study Committee, including a list of pros and cons for the proposed amendments, must be submitted in writing to the Council with a recommendation for:

- (1) Approval: or,
- (2) Disapproval: or,
- (3) Approval as revised.

(F) In the event that the Study Committee is unable to reach a decision on a recommendation, the matter will be presented to the Council.

### 8-250. Energy Standards Variation Procedure.

(A) The Council shall review and grant variations to the Energy Standard in accordance with S.C. Code Section 6-10-40 for special local conditions existing within a local jurisdiction.

(B) Requests for variations to the Energy Standard may only be considered when submitted to Council by the local enforcement agency proposing the changes and, if approved, are valid only within the requesting jurisdiction.

(C) All requests for variations must be accompanied by sufficient test information, studies, data or other documentation to fully explain and justify the requested variance. The submittal should include a list of the persons wishing to testify and their titles and affiliations. Each variation shall be submitted separately. Information submitted shall be legible and contain the following:

- (1) Name, address, phone number and title of the person making the request;
- (2) Name of jurisdiction for which the variation is being submitted;
- (3) The full wording for the proposed variation;
- (4) The basis or reason for the request;
- (5) The effect of the proposed variation on energy conservation and the use of any particular technologies, techniques or materials;
- (6) Whether the proposed variation will increase the cost of construction or operation of buildings in the jurisdiction; and
- (7) Why the proposed variation is necessary to protect the public health, safety and welfare with the jurisdiction.

(D) Variations granted to any local jurisdiction shall apply only to site constructed buildings. Structures approved and constructed in compliance with the Modular Act shall not be affected by any variation to the Energy Standards that may be granted to a local jurisdiction. All properly labeled modular buildings shall be accepted by the local enforcement agency as being in full compliance with the Energy Standards.

8-255. Repealed.

8-260. Repealed.

8-261. Repealed.

8-270. Repealed.

8-275. Repealed.

## ARTICLE 6

### MODULAR BUILDING CONSTRUCTION

(Statutory Authority: 1976 Code Sections 23-43-40 and 40-1-70)

8-600. The South Carolina Modular Buildings Construction Act.

8-601. Purpose.

(1) The provisions of these regulations are adopted in implementation of the South Carolina Modular Buildings Construction Act of 1984, Chapter 43 of Title 23 of the South Carolina Code of Laws, 1976 as amended, and are intended to provide uniform standards for modular construction, while preserving and recognizing local governmental responsibility in regard to utilization of modular buildings within a community.

(2) Regulations provided herein are applicable to all modular buildings which are manufactured for and subsequently erected within the State of South Carolina, and all modular buildings manufactured in South Carolina erected in other states under reciprocal agreements. These regulations apply to all buildings erected in the State of South Carolina.

(3) The definition of modular building does not include mobile or manufactured homes, as defined by the U.S. Department of Housing and Urban Development, which is any residential unit constructed to the Federal Mobile Home Construction and Safety Standards, 42 USC Sections 5401 and 24 CFR 3282 and 3283.

8-602. Definitions.

For the purpose of these regulations, the following words shall have the meanings indicated:

(1) “Act” means the South Carolina Modular Buildings Construction Act of 1984, Chapter 43 of Title 23 of the South Carolina Code of Laws, 1976 as amended.

(2) “Approved” means conforming to the requirements of Council.

(3) “Approved inspection agency” means an agency approved by the Council to provide plan review and approval, evaluation, and inspection in addition to adequate follow-up services at the point of manufacture to ensure that production units are in full compliance with the provisions of the Modular Building Construction Act.

(4) “Building System” means plans, specifications and documentation for a system of modular buildings or for a type or a system of building components, which may include structural, electrical, mechanical, plumbing and fire protection systems, and other building systems affecting life safety.

(5) “Closed Construction” means that condition when any building, component, assembly, subassembly, or system is manufactured in such a manner that all portions cannot be readily inspected at the erection site without disassembly.

(6) “Component” means any assembly, subassembly, or combination of elements of closed construction, for use as a part of a building, which may include structural, electrical, mechanical, plumbing and fire protection systems, and other building systems affecting life safety.



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(7) “Council” means the South Carolina Building Codes Council as established by Section 6-9-63 of the South Carolina Code of Laws.

(8) “Damage” means damage or breakage occurring to a modular building or any part thereof causing it to not comply with these regulations.

(9) “Days” shall be construed to be work days, and shall not include Saturdays, Sundays, or holidays.

(10) “Department” means the Department of Labor, Licensing and Regulation for the State of South Carolina.

(11) “Equipment” means all materials, appliances, devices, fixtures, fittings, or accessories installed in or used in the manufacture and assembly of a modular building.

(12) “Field technical service” means clarification in the field by the Council of technical data relating to the application of the regulations.

(13) “Labeled” means equipment bearing a label of certification by an approved listing organization.

(14) “Listed” means equipment or materials included in a list published by an approved listing organization.

(15) “Local Building Official” means the officer or other designated authority, or duly authorized representative, charged with the administration and enforcement of building codes and standards, for any county, city, town, or other political subdivision of the state.

(16) “Manufacturer” means any person, firm, or corporation which manufactures or assembles modular buildings.

(17) “Manufacturer’s Representative” means any person employed by a modular building manufacturer who sells, or offers for sale, modular buildings or components.

(18) “Model” means a specific modular building design which is based on size, room arrangement, method of construction, and arrangement of plumbing, mechanical, or electrical equipment and systems therein.

(19) “Open Construction” means any modular building, building component, assembly, or system manufactured in such a manner that all parts or processes of manufacture can be readily inspected at the installation site without disassembly.

(20) “Site” means the location on which a modular building is erected or is to be erected.

(21) “Standard Design” means any building, system, model, series, or component intended for duplication or repetitive manufacture.

(22) “System Prototype” means a specific design of modular building designated by the manufacturer to be the standard for reproduction. A system prototype may include options that do not affect the performance or function of any system.

### 8-603. Council Duties and Responsibilities.

(1) The Council shall require filing and final approval of all quality control manuals, system, and model design plans changes as they occur.

(2) Plans, manuals, and related documents will be accepted only after approval of and submittal by an approved inspection agency, but are subject to review as deemed necessary by the Council.

(3) Any person may request field technical services provided such requests are submitted to the Council in writing and are subject to the fee schedule in these regulations.

**8-604. Adoption of Model Codes.**

(1) The design and fabrication of modular buildings shall comply with the requirements of the building codes as listed in Chapter 9, Title 6, of the South Carolina Code of Laws, 1976 as amended.

(2) Energy code. The design and installation of thermal performance standards for all modular buildings shall comply with the requirements of the most recent edition of the International Energy Conservation Code as adopted under Title 6 Chapter 10 of the South Carolina Code of Laws, 1976 as amended.

(3) Building official. Where reference is made, in any building code, to the building, plumbing, gas or mechanical official, administrative authority, enforcement official or any such authoritative person, it shall mean the Council Administrator.

(4) All service connections and foundations installed at the building site shall be regulated by the local building official.

(5) Barrier Free Design. The design and erection of modular buildings for the purpose of public use must be in compliance with the Barrier Free Design Standard, Code of Laws of South Carolina, 1976 as amended, Sections 10-5-210 through 10-5-250, and adopted regulations.

**8-605. Enforcement Authority.**

(1) It is the intent of the Act and these regulations, that those areas of authority rightfully belonging to the local government are specifically and entirely reserved thereto. Such areas are land use, zoning, fire zones, site development and subdivision control, as well as the review and regulation of architectural and aesthetic requirements. Such requirements and regulations not in conflict with the provisions of the Act or these regulations, which currently exist or may be enacted, must be reasonable and uniformly applied and enforced without distinction as to whether such building is modular or constructed on site in a conventional manner. Local zoning ordinances shall not restrict location of, or otherwise discriminate against modular buildings certified in accordance with the Act and these regulations.

(2) The local government shall furthermore be reserved the authority to:

(a) require a complete set of plans and specifications as certified by the Council for each modular building erected within its jurisdiction; and

(b) require that all permits be obtained before erection of any unit on a building site; and

(c) approve and inspect foundation systems and all connections thereto; and

(d) approve and inspect all electrical, plumbing, gas, or mechanical systems from the source of service to the point at which they connect to the building.

(3) The local building official shall report any modular building that has been damaged enroute to the erection site.

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(4) Any modular building unit bearing the Council's certification label shall be deemed to comply with the requirements of all building codes, ordinances, or regulations which govern building construction, enacted by any local government at the time of construction at the manufacturing facility.

(5) The local building official shall require that all modular buildings bear a certification label before issuing a Certificate of Occupancy.

(6) The local building official shall report any violations of the Act or these regulations to the Council.

8-606. Delegation of Inspection Authority: Approved Inspection Agency's Qualifications, Acceptance Requirements.

(1) The Council shall consider an organization for acceptance as an approved inspection agency upon receipt of an application accompanied by a prospectus detailing its capabilities to perform in that capacity.

(2) Each organization applying for approval shall indicate in its application:

(a) its qualifications to inspect equipment and systems; and

(b) that the organization is not controlled by any manufacturer or supplier subject to the Council's jurisdiction; and

(c) that it will make available specific information as required by the Council; and

(d) that it retains a building construction oriented South Carolina registered professional engineer or architect who shall be responsible for compliance with these regulations; and

(e) its organizational structure; and

(f) the education and qualification of the employees to be doing the actual inspection and plan review; and

(g) its agreement to perform inspections at the frequency specified in these regulations; and

(h) proof that all personnel performing inspections are certified by a testing agency recognized by the Council.

8-607. Approved Inspection Agency Authority.

(1) An approved inspection agency shall conduct inspections at the manufacturing plant to determine compliance with the approved plans, the Act and these regulations. Violations of any of the provisions of these regulations or variations from the approved plans may be cause for revocation of the plan approval and shall be reported to the Council within one (1) day after discovery.

(2) Failure on the part of an approved inspection agency to fulfill its responsibilities or notify the Council of violations of these regulations or variations from the approved plans is cause for revocation of its approval.

(3) An approved inspection agency shall perform final plan review and approval, inspection, and certification of a single family residential modular building. Upon final plan review and approval by an approved inspection agency of a plan as meeting the requirements of the Modular Building Construction Act and the regulations of the council, a copy of the approved plan must be filed with the Department of Labor, Licensing and Regulation. Upon filing of an approved plan with the department by an approved inspection agency, a manufacturer may request from the department certification labels for units manufactured to the approved plan. Each certification

label must bear the serial number of the unit for which it is issued and only may be attached upon final inspection by an approved inspection agency.

(4) An approved inspection agency shall perform plan approval, inspection, and certification of commercial or multifamily modular buildings. Upon review by the approved inspection agency, the plans must be submitted to the Department of Labor, Licensing and Regulation for final plan review and approval.

(a) The design review for required plan submittal shall include a completed application on forms obtainable from the Council and one electronic copy of plans, specifications and structural, electrical, mechanical, and energy calculations prepared by an architect or engineer licensed to practice in the State of South Carolina; quality control manuals, calculations, and any required test results for each system and prototype to be approved. The approved inspection agency shall designate its approval by affixing its seal to each print, the cover of the quality control manual, and supporting data prior to submittal.

(b) The approved inspection agency shall submit for the manufacturer, a request for Council review which may include any or all elements of building systems such as structural, mechanical, plumbing, and electrical components. All modular building system submittals must include at least the following:

(1) Structural:

(i) details specifying methods of field connection of units or models to each other and foundations;  
and

(ii) all exterior elevations; and

(iii) elevations and details of elements, walls or sections thereof providing resistance to vertical loads or lateral forces; and

(iv) floor plans and floor framing plans; and

(v) details of framing system showing direction of face grain of plywood, blocking, connections, etc.;  
and

(vi) vertical load calculations; and

(vii) lateral force calculations; and

(viii) overturning and uplift calculations; and

(ix) details of all structural connections such as chord splices, corner and wall intersection details, post and beam splices, etc., (both inplant and onsite connections must be shown); and

(x) complete roof framing plan showing method of framing, direction of face grain of plywood, connections, etc., roof covering material and roofing specifications; and

(xi) cross sections as necessary to identify major building components; and

(xii) information for plywood when used, such as thickness, index number, grade, direction of face grain, etc., and lumber grades; and

(xiii) details of flashing, such as at openings and at penetrations through roofs flashing material and gage to be used; and

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- (xiv) attic access and attic ventilation; and
- (xv) wall and soffit material as well as finish; and
- (xvi) interior wall and ceiling finish; and
- (xvii) fire separation details, when required by code; and
- (xviii) opening treatment for doors and windows including door swings; and
- (xix) all foundation vents and under floor access; and
- (xx) structural steel materials, sizes, finishes, and connection details; and
- (xxi) reinforcing, concrete and mesh materials, strengths, grades, sizes, spacing and details in accordance with “Building Code Requirements for Reinforced Concrete, ACI 318”; and
- (xxii) all work that is required on the building site; and
- (xxiii) details of all elements for access and use by people with disabilities.

### (2) Plumbing:

- (i) plan and riser diagram of the plumbing layout showing size of piping, fittings, traps, vents, cleanouts and valves, etc., for gas, water, drainage, waste, and vent systems; and
- (ii) plumbing materials, make, model, and rating/capacity of fixtures; and
- (iii) make and model of safety controls and their locations; and
- (iv) intervals and method of horizontal piping support; and
- (v) vertical piping and valve supports; and
- (vi) location of flues and vents above roofs and required clearances from air intakes, other vents and flues, etc.; and
- (vii) method of testing.

### (3) Mechanical:

- (i) location of all equipment and appliances; and
- (ii) listed or labeled appliances, units or equipment; and
- (iii) heat loss and heat gain calculations; and
- (iv) BTU, input and output rating of all appliances and equipment; and
- (v) duct and register locations, including size, and materials; and
- (vi) clearance from combustible material or surfaces for all appliances, equipment, ducts, flues, and chimneys; and

- (vii) method of providing required combustion air and return air; and
  - (viii) location of flues, vents and chimneys, and clearances for air intakes; and
  - (ix) details and approvals for dampers in ducts penetrating fire separation walls, floors and ceilings;
- and
- (x) method of testing; and
  - (xi) method of securing every appliance and its components to avoid displacement and movement from vibration and road shock.

(4) Electrical:

- (i) plan and detail of service equipment, including service entrance, conductors, service raceway and clearances, above ground, and above structures; and
- (ii) method and detail for grounding service equipment; and
- (iii) diagram of the entire electrical installation; and
- (iv) complete load calculations for service and feeders; and
- (v) identification and sizes of all feeders and branch circuits; and
- (vi) size, rating, and location of main disconnect/overcurrent protective devices; and
- (vii) method of interconnection between modules or units and location of connections; and
- (viii) location of all outlets and junction boxes; and
- (ix) the protection of nonmetallic sheathed cable in locations subject to mechanical damage; and
- (x) method of backing, mounting, and strapping of fixtures and wiring; and
- (xi) name plate rating of all appliances and equipment; and
- (xii) method of testing; and
- (xiii) labeling of wiring, fixtures, and equipment.

(5) Calculations and test procedures. When the composition or configuration of elements, assemblies, or details of structural members are such that calculations of their safe load carrying capacity, basic structural integrity, or fire resistance cannot be accurately determined in accordance with generally established principles of engineering design, such structural properties, or fire resistance of the members or assemblies may be established by an approved inspection agency.

(6) Design plan approval expiration. Design plan approvals shall expire on the effective date of any applicable change to these regulations and the building codes referenced herein.

(7) It shall be the responsibility of the manufacturer to submit an application for design plan renewal to the Council.

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(8) Revocation of approval. Revocation of a plan approval shall occur upon the failure of the manufacturer to comply with the provisions of these regulations.

(9) Nonconforming application. If an application does not conform to the requirements of these regulations, the applicant shall be notified in writing. If corrections have not been received by the Council within ninety (90) days of such notice, the application will be deemed abandoned. Subsequent submission shall be as for a new application.

(10) Evidence of Council approval. Approved plans and specifications shall be evidenced by acknowledgment of the Council. Approved copies of the plans and specifications shall be returned to the manufacturer with a letter indicating the limitations of the approval, if applicable. A copy of the letter shall be available for inspection use at each place of manufacture.

(11) Manufacturer's unit data plate. The manufacturer shall install on all modular building units, a data plate which shall contain, but not be limited to the following design information:

- (a) maximum live load; and
- (b) maximum snow load; and
- (c) maximum wind load; and
- (d) seismic zone; and
- (e) thermal transmittance value ( $U_o$ ) of: walls, roof/ceiling, and floors.

(12) The data plate shall be permanently mounted in a conspicuous location.

(13) Manufacturer's component data plate. The manufacturer shall install on each modular component or package of modular components a data plate which indicates the limiting characteristics and design criteria of the components for determining how they can be installed and utilized within their capabilities.

(14) All modular plans, apart from single-family dwellings, must be submitted to the Council and approval issued prior to the commencement of construction of the modular building or component in the manufacturing facility. The approved inspection agency shall not inspect or allow a certification label to be affixed to any modular building or component whose plans have not been approved by the Council.

### 8-608. Quality Control Procedures.

(1) The manufacturer shall establish a written agreement with an inspection agency approved by the Council, clearly stating the quality control procedures which it shall institute in its manufacturing facilities. The quality control procedures shall be documented in manual form, which the manufacturer shall submit to the approved inspection agency for approval. The quality control program outlines must comply with these regulations and be approved by the Council.

(2) The quality control manual shall include quality control procedures for the modular building manufacturing process such as, construction sequence; compliance of basic materials with specifications; frequency of inspection; administrative procedures and samples of quality control forms to be used; and, system description for retention of quality control records.

(3) The manufacturer shall designate an employee to be responsible for the quality control program in its plant and to maintain records to substantiate that each modular unit has been inspected in accordance with the approved plans and specifications.

(4) All modular buildings or components shall be manufactured in accordance with the building codes adopted in these regulations and the quality control procedures established by the manufacturer and accepted by the approved inspection agency and the Council.

(5) The Council may perform a minimum of one (1) annual audit, at the address of record, for a licensed manufacturing facility and approved inspection agency, with or without notice.

**8-609. Change in Status, Alterations.**

(1) Changes to approved plans.

(a) If the manufacturer proposes to change any portion of its system or model designs, or if the Council regulations are amended to necessitate such change, it shall be required to submit to the Council, through its approved inspection agency; one electronic copy of detailed, supplemental plans. Plans shall be accompanied by a transmittal of supplementary plan application form, obtainable from the Council and the appropriate plan filing fee.

(b) A model name or designation may be changed or added prior to the expiration date by filing an amended application.

(c) If the manufacturer proposes changes in the quality control manual or procedures, one electronic copy of the changes shall be submitted to the Council through the approved inspection agency.

(2) Change of name, address, or ownership. In the event of a change of name, address, or ownership of a modular building manufacturer, the owner, or an officer shall notify the Council in writing within ten (10) days of such change.

(3) Discontinuance of manufacturer. When a manufacturer discontinues an approved model, the manufacturer shall, within ten (10) days, advise the Council of the date of the discontinuance and return all certification labels allocated to the model.

(4) Existing model approvals. In the event of amendment of these regulations or the building codes referenced herein, which will require changes to an approved model design, the Council shall notify the manufacturer of such changes, and shall allow the manufacturer ninety (90) days from the date of such notification, or such additional time as the Council shall deem reasonable, in which to submit revised plans for model approval.

(5) Revised model plans submitted pursuant to this section shall be processed as a supplemental detail, with appropriate fees.

(6) Alteration or conversion. Any unauthorized alteration or conversion made to an approved modular building prior to initial erection shall void the approval. The state certification label(s) affixed to the building shall be returned to or be confiscated by the Council.

(7) Any alteration or conversion made to an approved modular building after initial erection shall void the approval and certification label, and, be subject to the provisions of the building inspection program for the jurisdiction in which it is located.

**8-610. Alternate Methods and Materials.**

(1) The provision of these regulations are not intended to prevent the use of any material, appliance, device, system arrangement, or method of construction not specifically prescribed in accepted model codes, provided any such alternate has been approved by the Council.



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(2) The Council may approve alternates if it finds that the proposed design is satisfactory and that the material, appliance, device arrangement, method, system, or work offered is at least the equivalent in performance, quality, strength, effectiveness, fire resistance, durability, and safety.

(3) Listed or labeled equipment and systems may be disapproved by the Council, if it determines that they are not adequate to serve their intended purposes.

(4) All material submitted by the manufacturer to the Council in the form of plans, engineering data, test results quality control manual etc., will be considered as proprietary information of the applicant.

(5) Requests for alternate methods and materials may be made by a licensed manufacturer and shall be submitted to the Council in writing. Requests by the manufacturer must be reviewed and approved by its approved inspection agency prior to submission, as evidenced by the approved inspection agency's seal affixed to the request.

### 8-611. Approved Inspection Agency: Inspection.

(1) Inplant inspections. The approved inspection agency shall conduct announced and unannounced inspections at the manufacturing site to review any or all aspects of manufacturer's production and quality control procedures. The approved inspection agency shall make a complete inspection of at least one (1) unit through all phases of manufacture to assure that the manufacture has the capabilities to produce units in compliance with their approved design and/or the appropriate codes. Thereafter, inspection of every system of every building or component shall be made at least at one (1) point during the manufacturing process.

(2) Individual unit inspections. The quality control procedure set forth in these regulations may be waived by the Council at the manufacturer's request. Waiver of the quality control procedure, however, shall require the manufacturer to have all systems of each unit he it produces individually inspected.

### 8-612. Reciprocity.

(1) A modular building sold or erected in South Carolina, which has been inspected under a reciprocal agreement with another state, shall bear the certification label of South Carolina, and the certification label of the inspecting state or a common label approved by Council.

(2) The Council reserves the right to determine compliance of all units to be sold or erected in South Carolina which have been inspected under reciprocal agreement with another state.

### 8-613. Multiple Site Manufacturing.

(1) If a manufacturer plans to produce at more than one (1) location, required plan approval may be obtained for all locations subject to submission of the following:

(a) one (1) set of plan review application forms for each location; and

(b) one electronic set of plans and specifications, plus one (1) additional set for each location specifying the location of manufacture; and

(c) filing fees as designated in these regulations; and

(d) one (1) electronic quality control manual for each location of manufacture.

(2) If a manufacturer wishes to obtain approval for one (1) or more points of manufacture, a manufacture's license, and at least one (1) manufacturer's representative license must be issued for each location.

## 8-614. Council Certification Label.

(1) Each modular building, section, or component containing any portion of a closed system shall bear a certification label prior to leaving the manufacturing plant unless otherwise authorized by the Council. Each certification label shall be assigned and affixed to a specific unit in a visible location as approved by the Council and whenever possible on the electrical distribution panel cover.

(2) Certification labels are not transferable and void when not affixed to the building, room or component for which they are assigned. All voided certification labels shall be returned to, or may be confiscated by the Council.

(3) The control of certification labels shall remain with the Council and may be revoked by the Council in the event of violation of the conditions of approval.

## 8-615. Certification Label Application and Issuance.

(1) A certification label request application, along with the appropriate fee, shall be submitted by the manufacturer to the Council. The application shall include the manufacturer's model serial number of each unit for which a certification label is required. Additionally, the manufacturer shall file with the Council a certification label disposition report on a form approved by the Council at least monthly, which indicates the model serial number, certification label number, and final location of each modular unit.

(2) For single-family modular dwellings, the licensed residential home builder or general contractor performing the installation shall attest to and take responsibility for: obtaining all required building permits, the installation of the foundation, the connection of the unit to the foundation, the connection of all modular sections to each other, the installation of all components provided by the factory (unless noted otherwise on the plans approved and sealed by the SC Building Codes Council), and the completion of all finish work for the modular unit. This attestation must be on a form approved by the Council and submitted to the Council as part of the certification label request application.

(3) For display models meeting the conditions of Section 23-43-85(D), the licensed residential home builder or general contractor performing the installation shall attest to and take responsibility for obtaining all required building permits, the installation of a temporary foundation, the connection of the unit to the temporary foundation, the connection of all modular sections to each other, the installation of all components provided by the factory (unless noted otherwise on the plans approved and sealed by the SC Building Codes Council), and the completion of all work necessary to install the modular unit as a display model safe for entry by members of the public. This attestation must be on a form approved by the Council and submitted to the Council as part of the certification label request application.

## 8-616. Repealed.

## 8-617. Removal of Certification Labels.

(1) In the event that a modular building or component bearing a certification label is found to be in violation of the approved plans, the approved inspection agency or the Council shall remove the certification label and furnish the manufacturer with a written statement of all violations.

(2) Following correction of all violations, the manufacturer shall request an inspection to be made by the approved inspection agency or Council, before a replacement certification label may be issued.

(3) In the event that a certification label is removed from an approved modular building or component after leaving the manufacturing site but before a certificate of occupancy is issued by the authority having jurisdiction, the approved inspection agency shall be required to perform an inspection at the erection site and provide written verification to the Council that no changes were made to the portions of closed construction. Upon submission

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to the Council of written verification from the approved inspection agency, the manufacturer may request in writing a duplicate label that shall be affixed at the erection site under the supervision of the approved inspection agency.

### 8-618. Schedule of Fees.

The Council may charge fees as shown in South Carolina Code of Regulations Chapter 10-7. All application and filing fees are payable at the time of submittal and are nonrefundable.

### 8-619. Appeal Procedures.

(1) Any person or organization aggrieved by the application of these regulations may initiate an appeal by writing to the Council within thirty (30) days following the date of action upon which the appeal is based. The request shall contain:

(a) the name and address of appellant; and

(b) the names and addresses of all other persons involved; and

(c) a summary of the action from which the appeal is taken; and

(d) the grounds of disagreement with the action from which the appeal is taken; and

(e) a statement that the appellant desires a hearing or decision based on written arguments and documents submitted; and

(f) the signature of the appellant or responsible officer if the appellant is an organization; and

(g) additional documents as the appellant may consider pertinent.

(2) Call of meeting. Upon receipt of a request, the Department shall call a meeting of the Council to be held within forty-five (45) days of the request. The Department shall provide written notice of the time, date, and place of the hearing to the appellant and all persons indicated in the request.

(3) Evidence. Technical rules of evidence shall not be applicable and all relevant evidence of reasonable value may be received.

(4) Ruling. A ruling of the Council shall require a majority vote of the members present. A record of the meeting, stating the Council's ruling and reasons therefore, shall be maintained for public review.

(5) Notification of ruling. The Department shall notify the appellant of the ruling within ten (10) days of the decision of the Council.

### 8-620. License Application Requirements.

(1) Every manufacturer that produces modular buildings to be erected in South Carolina, must be licensed in accordance with the Act and these regulations. The application for a modular building manufacturer's license shall include, but not be limited to the following:

(a) the name of the business; and

(b) the address or location of the business; and

(c) the state in which the manufacturer is incorporated; and

(d) a statement of the business history of each owner, partner, or officer of the manufacturing firm or corporation, for the past seven (7) years.

(e) a certificate of existence or certificate of good standing from the South Carolina Secretary of State (“SCSOS”) for South Carolina manufacturers or a certificate of authority from the SCSOS for out-of-state manufacturers.

(2) Every manufacturer shall employ at least one (1) representative, who will be responsible for the sale of modular buildings or components. All manufacturer’s representatives must be licensed in accordance with the Act and these regulations. The application for a modular building manufacturer’s representative license shall include, but not be limited to:

(a) the name of the applicant; and

(b) the residence address of the applicant; and

(c) the names and addresses of previous employers for the past three (3) years.

#### 8-621. Sale of Modular Buildings.

(1) Only South Carolina licensed manufacturer’s representatives or South Carolina licensed homebuilders or South Carolina licensed general contractors in the building classification within the group limitations of the license are permitted to sell modular buildings or components to consumers on a retail basis, provided that;

(a) if the modular building is purchased by a residential builder operating as a firm, the firm must meet the requirements of Sections 40-59-400 and 40-59-410, including, when applicable, the requirement to hold a residential business certificate of authorization issued by the Residential Builders Commission, or

(b) if the modular building is purchased by a company operating as a licensed general contractor, the company must meet the definition of an entity in Section 40-11-20 (7) and have a designated primary qualifying party, as required under Section 40-11-230. The primary qualifying party shall serve as the principal individual responsible for directing or reviewing work performed by the licensee in a particular license classification or subclassification; and

(c) the general contractor or residential builder must sell the modular building directly to the consumer and perform, and take responsibility for, erection of the structure and all its related systems and site work or must contract to have this work performed by a properly licensed general contractor or residential builder. A sales contract is required and must identify the seller and buyer by name.

#### 8-622. License Issued.

(1) A license shall be issued by the Council when it is determined that the information contained on the application is in compliance with these regulations.

(2) Any change in the information presented on the original application shall be submitted to the Council within twenty (20) days.

#### 8-623. Security Requirement.

Before any license may be issued, a corporate surety bond or other security approved by the Council must be provided. The bond must designate the licensee as principal and be issued for the biennial period of the license.

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Bonds shall be in the amount of seventy-five thousand dollars (\$75,000.00) for manufacturers and ten thousand dollars (\$10,000.00) for manufacturer's representatives. All bonds shall be to the Council and in favor of any person who suffers loss as a result of any violation of the Act or these regulations. A new bond or proper continuation certificate shall be delivered to the Council at the beginning of each biennial license period. The aggregate liability of the bond or security in any one (1) year shall not exceed its total annual amount. No applicant shall be required to have more than one (1) bond.

### 8-624. Duties and Responsibilities of Council.

(1) The Council shall keep minutes and records of all its transactions, proceedings and meetings, and duly certified copies thereof shall be sufficient to comply with the rules of evidence.

(2) The Council shall investigate on its own initiative or upon written complaint, allegations of wrongful acts involving a manufacturer, or manufacturer's representative in accordance with the provisions of Sections 40-1-80 and 40-1-90.

### 8-625. Denial, Revocation or Suspension of License.

In addition to the grounds provided for in Section 40-1-110, the Council, upon a majority vote, may cancel, suspend, refuse, deny, revoke or restrict any license issued for any of the following reasons:

- (a) providing false or inaccurate information on any license application; or
  - (b) willfully or intentionally failing to comply with any provision of the Act or these regulations; or
  - (c) failing to have an established place of business; or
  - (d) employment of fraudulent methods or practices; or
  - (e) using unfair methods of competition or deceptive acts or advertising; or
  - (f) failing to obtain a license before doing business in South Carolina; or
  - (g) failing to appear before the Council upon due notice or follow directives of the Council or Department;
- or
- (h) failing to comply with adopted codes or standards in the manufacture, sale, or delivery of modular buildings; or
  - (i) offering for sale unlicensed manufacturer's products, either wholesale or retail; or
  - (j) selling a modular building or component, for the purpose of resale, to an individual or entity other than a general contractor or residential builder.

After a hearing and a determination by the Council that one or more of the grounds for discipline exist, the Council may impose sanctions in accordance with Section 40-1-120.

### 8-626. Erection.

(1) Modular buildings shall be erected by South Carolina licensed general contractors or residential home builders within the limitations of their license classifications in accordance with the manufacturer's recommended erection procedures and the building codes adopted in these regulations. Upon completion of erection, modular buildings shall be considered equal to structures constructed on site in a conventional manner.

The general contractor or residential builder must assume the same responsibilities and liabilities for the work which they perform, as if the buildings were constructed on-site. All manufacturers, general contractors and residential builders to the extent of their work, shall be subject to the provisions of Section 15-3-630.

(2) All warranty periods offered by the manufacturers of modular buildings, building systems, building components and appliances will begin at the time the consumer takes possession of the building.

8-627. Exemption.

(1) Factory built structures meeting all of the following criteria will be exempt from these regulations. To be exempt the unit must:

- (a) be designed for continuous over-the-road travel; and
- (b) have a maximum width of eight (8) feet in its transportable mode; and
- (c) have a maximum length of fifty (50) feet; and
- (d) have permanently mounted running lights; and
- (e) have a current license plate; and
- (f) have permanent axle(s) and under carriage system; and
- (g) have stabilizers and permanent front jack stands; and
- (h) have a permanent fifth (5th) wheel connection; and
- (i) have a permanent suspension system; and
- (j) provide an electrical cord for temporary electrical service.

(2) Self-propelled structures, containing an integral cab and licensed as a motor vehicle will be exempt from these regulations.

8-628. Recertifying.

(1) Modular buildings, originally constructed, certified and labeled in accordance with the act and these regulations, may be recertified and relabeled if all of the following conditions are met.

- (a) the original manufacturer must hold a current license issued in accordance with the act and these regulations; and
- (b) the original certification label(s) must be attached to the building and be in good, legible condition; and
- (c) the building must be returned to the original manufacturing facility; and
- (d) the building must be certified by an approved inspection agency as meeting all requirements of the building codes in effect and recognized by the Council at the time of recertification; and
- (e) the manufacturer must install a new data plate on the building while at the manufacturing facility; and

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(f) the approved inspection agency must install a new certification label on the building while at the manufacturing facility; and

(g) the manufacturer must pay the fee for recertification and purchase a new certification label; and

(h) the approved inspection agency must be present and witness the installation of the new certification label issued by the Council while at the manufacturing facility.

### 8-629. License Renewal.

(1) Licenses must be renewed biennially and shall be lapsed if not renewed prior to expiration of the preceding licensure period.

(2) License renewal notices shall be sent to all individuals and entities licensed with the Council at the last known address provided by the licensee.

(3) All applications for license renewal must be accompanied by the prescribed fee as set forth in SC Code of Regulations Chapter 10-7.

(4) All licenses not renewed in a timely manner will lapse and a new application must be submitted with the applicant meeting all conditions for initial licensure.

### 8-630. Damaged Units or Components.

The Council shall require that any modular building unit or component damaged between the point of manufacture and the site of initial installation shall be brought into compliance with the Act, these regulations and the accepted model codes, in effect at the time of certification, before the modular building is occupied. Prior to any repairs being undertaken to a damaged unit or component, the approved inspection agency shall perform an inspection of the damaged unit or component and furnish a written report to the Council stating its condition and whether the recommendation is for repair or disposal. In the event that any modular building unit or component is irreparably damaged and the recommendation is for disposal, it shall be disposed of in accordance with applicable law.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

The proposed regulations will update and clarify its regulations, remove material that is duplicative of or conflicts with statute, delete obsolete references, and repeal unnecessary regulations. More specifically, the regulations will clarify requirements for all registrants. It will clarify continuing education requirements, including reflecting biennial licensure, adding options for obtaining continuing education credit for passage of ICC exams, allowing for self-paced coursework, and adding continuing education waivers for states of emergency and for illness and disability. The regulation will update the investigative process to comport with the description in Chapter 1 of Title 40 of the Code of Laws. The proposed regulations will also update the building code modification procedure and amend the requirements for the study committee. The proposed regulations will update the South Carolina Modular Buildings Construction Act to include modernizing requirements for plan submission and amending requirements for certification label application and issuance, among other changes.

Document No. 5254  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**SOUTH CAROLINA BOARD OF CHIROPRACTIC EXAMINERS**  
CHAPTER 25

Statutory Authority: 1976 Code Section 40-9-30(D)(3)

- 25-2. Application for Licensure.
- 25-3. Licensure by Endorsement.
- 25-5. Professional Practices.
- 25-6. Professional Conduct.
- 25-8. Advertising and Solicitation.
- 25-9. Disciplinary Actions and Procedures.

**Synopsis:**

The South Carolina Board of Chiropractic Examiners proposes to amend the following regulations following its five-year regulatory review conducted in accordance with S.C. Code Section 1-23-120(J): R.25-3, R.25-5, R.25-6, R.25-7, R.25-8, and 25-9.

A Notice of Drafting was published in the *State Register* on July 28, 2023.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

25-2. Application for Licensure.

A. Application. Any person desiring to be licensed as a chiropractor must apply to the Board and provide all information and documentation required by the Board. Applications and accompanying documents will be valid for one (1) year from the initial application date. After one (1) year, a new application with attendant documents and appropriate fees must be submitted. Applicants must be within ninety (90) days of graduation or graduated, and have passed all applicable National Board examinations. Applications must include:

(1) Pre-professional education transcript. A certified copy of the applicant's transcript from an accredited pre-professional college. An applicant's transcript must indicate two years (60 semester hours) toward a degree from a college or university accredited by the Southern Association of Colleges and Schools or an accrediting agency of equal status and recognition.

(2) Chiropractic college transcript. A certified copy of the applicant's transcript from a chiropractic college accredited by or having recognized candidate status with the Council of Chiropractic Education or with the Commission on Accreditation of the Straight Chiropractic Academic Standards Association or meeting equivalent standards. Students who are within ninety (90) days of graduation may submit an attested letter from the chiropractic college establishing estimated date of graduation.

(3) National Board of Chiropractic Examiners scores. Applicants must have completed and passed all required parts of the National Board examinations prior to application for the South Carolina license.

(a) Graduates from a chiropractic college prior to July 1, 1987, must have passed Parts I and II and/or passed an examination approved by the Board, such as the Special Purpose Examination for Chiropractic (SPEC) or Part IV or another state's practical exam.



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(b) Graduates from a chiropractic college on or after July 1, 1987, but before January 1, 1997, must have passed Parts I, II and III and passed a practical examination approved by the Board, such as the Special Purpose Examination for Chiropractic (SPEC) or Part IV or another state's practical exam.

(c) Applicants graduating from a chiropractic college on or after January 1, 1997, must have passed Parts I, II, III, and IV with the National Board of Chiropractic Examiners (NBCE) recommended passing score.

(4) South Carolina Board of Chiropractic Examiners Ethics and Jurisprudence Examination. Applicants shall be tested in South Carolina law and ethics and pass with a score of seventy-five percent (75%) or more. If an applicant fails to achieve a score of seventy-five percent (75%) or more the applicant may retake the examination within one (1) year.

(5) Verification(s) of Licensure. Complete verification of licensure, active or inactive, is required from each state in which the applicant is or has been licensed.

(6) Photographs. Two (2) recent passport-size photographs of the applicant.

(7) Fees.

Licensure fees will be established by the Department in conjunction with the Board and adjudicated in accordance with Sections 40-9-50 and 40-1-50(D).

B. Denial of application. An application may be denied if the applicant has committed any act which indicates that the applicant does not possess the character and fitness to practice chiropractic, including any act that would be grounds for disciplinary action against a licensed chiropractor.

### 25-3. Licensure by Endorsement.

A license may be granted for applicants who meet the following requirements:

A. Applicant must have been licensed for one (1) continuous year immediately preceding application to this Board.

B. Applicants who matriculated after July 1, 1987, must meet all National Board examination requirements as set forth in Section 25-2.

C. Applicants who matriculated prior to July 1, 1987, must have passed a state examination or passed National Board Parts I and II.

D. Verification of licensure from every state where a license has been held, active or inactive, current or expired. Verification must be received directly from the respective state board to the South Carolina Board of Chiropractic Examiners.

E. Applicant must take and pass the South Carolina Ethics and Jurisprudence Examination with a score of 75% or more.

F. Applications for endorsement are valid for one year only, and the application must be completed within one (1) year of the initial application date.

G. An applicant whose license from another state has been expired for four (4) years or less must complete a new application and provide satisfactory evidence of Board-approved continuing education (CE) hours to cover the time period during which the license was expired.

H. An applicant whose license from another state has been expired for more than four (4) years must complete a new application and take and pass the SPEC examination or a substantially equivalent future NBCE examination, or meet requirements in effect at the time of the new application.

#### 25-5. Professional Practices.

##### A. Lapsed or Expired South Carolina Licenses.

(1) A chiropractor whose license has been expired for more than twelve (12) months but four (4) years or less, may reactivate the license by submitting an Application for Reinstatement, satisfactory evidence of CE for each lapsed or expired renewal cycle, if applicable, and each renewal cycle's license fee plus the applicable penalty.

(2) A chiropractor whose license has been expired for more than four (4) years must complete a new application and take and pass the SPEC examination, or meet requirements in effect at the time of the new application.

B. Continuing Education (CE). As a pre-requisite for biennial renewal of a practitioner's license, the licensee must complete a minimum of thirty-six (36) hours of approved professional CE, no more than half of which may be online. "One continuing education (CE) hour" shall mean a minimum of fifty (50) minutes of interactive instruction or organized learning. Of the thirty-six (36) CE hours, two (2) hours are required in rules and regulations of the S.C. Board of Chiropractic Examiners (limited to four (4) hours per renewal period) and two (2) hours in risk management which include, but are not limited to, boundary or public health issues.

(1) Acceptable educational programs or courses are those that are:

(a) presented and/or sponsored by accredited chiropractic colleges;

(b) taught by post-graduate level instructors of an accredited college or school approved by the Board;  
or

(c) presented and/or sponsored by other individuals or organizations approved by the Board.

(2) In addition, CE may also be granted by:

(a) administering Part IV of the National Board of Chiropractic Examination, which may count toward fifteen (15) hours of CE per administration, including risk management and boundary issues credit;

(b) attendance at Federation of Chiropractic Licensing Boards/National Board of Chiropractic Examiners (FCLB/NBCE) meetings, which may be accepted as twelve (12) hours of CE per meeting;

(c) teaching a course at an accredited chiropractic college, which may provide the number of CE hours commensurate with the hours earned by the students taking the course;

(d) serving as a teaching assistant for a course at an accredited chiropractic college, which can earn one-half of the hours earned by students taking the course;

(e) out-of-state licensees meeting their home state's CE requirements, which will satisfy the Board's CE requirements;

(f) teaching an approved CE seminar, which may provide the number of CE hours equal to the number of hours taught in the course limited to eighteen (18) hours per renewal period; and

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(g) attending a test committee of NBCE, which may be accepted as twelve (12) hours of CE per meeting.

(3)(a) CE Exemption. Chiropractors who graduate from an accredited chiropractic college and become licensed to practice chiropractic within the same biennial license renewal period are exempted from the thirty-six (36) hour CE requirement during that same biennial renewal period. Their senior year chiropractic college classes and their license examination preparation and testing are deemed to adequately fulfill the aims of the CE requirement during this time period. This exemption is allowed only for those who graduate and are licensed within the same renewal period; chiropractic college graduates who become licensed during a renewal period other than that of their graduation are not eligible for this exemption.

(b) Chiropractors who are at least 60 or older and have been licensed for 30 or more years may be exempt from CEs once both criteria are met.

(c) Chiropractors who are serving on active duty in the Armed Forces of the United States for periods longer than 180 consecutive days may submit an exemption request in writing to the Board with supporting documentation.

(4) Sponsor Requirements. All sponsors seeking approval for educational programs must submit a written request to the Board Administrator at least ninety (90) days prior to the scheduled date of the presentation, be PACE (Providers of Approved Continuing Education)-approved (provided it is within the scope of chiropractic practice), South Carolina Chiropractic Association, Palmetto State Chiropractic Association, or other associations or organizations approved by the Board in its discretion. Non-PACE-approved providers shall:

(a) have a mechanism for the maintenance of records for no fewer than three (3) years;

(b) have a method of monitoring and verifying attendance;

(c) provide each participant adequate documentation of participation in the program to include:

(i) name and license number of participant;

(ii) name and address of the sponsoring individual(s) or organization;

(iii) name of program;

(iv) number of hours completed;

(v) date and location of program;

(vi) authorized signature.

(d) not present sales promotions during the CE seminar or presentation. Sales promotions are appropriate by sponsors or instructors outside the seminar or presentation, or outside the room during a seminar or presentation.

(5) Program Approval Requirements. Requests for program approval must include the following information:

(a) name and address of the sponsoring individual(s) or organization;

(b) instructors' name and credentials;

(c) outline of program content;

- (d) the number of actual hours of instruction;
- (e) the method of monitoring and certifying attendance;
- (f) location at which the program will be presented;
- (g) the dates on which the program will be presented;
- (h) course approval is valid for two (2) renewal periods.

(6) Program approval will be based on the following criteria:

(a) The program will enhance the practitioner’s knowledge and skill in the practice of chiropractic as defined by state law.

(b) The instructors are sufficiently qualified in the field of instruction either by practical or academic experience or both.

(c) The program will be held in a suitable setting, conducive to learning.

(d) Adequate monitoring or certifying measures are provided.

(7) Practice-building subject matter (administration, finance, etc.) will not be approved for license renewal.

(8) Comprehensive Approval. A comprehensive approval allows the provider or sponsor to submit an application indicating all course offerings for a given calendar year. Requests for a comprehensive approval may be submitted to the Board office at least ninety (90) days prior to the beginning of each year or ninety (90) days prior to the beginning of a scheduled program. Providers and sponsors shall be responsible for renewal approval.

C. Retention and Audit. Licensees must maintain copies of attendance certificates for four (4) years from the last renewal date. The Board may conduct random audits of licensees on an annual or biennial basis to certify compliance with CE requirements.

D. Waiver During Incapacitating Illness or Extraordinary Hardship. The Board reserves the right to waive CE requirements for individual cases involving extraordinary hardship or incapacitating illness. A licensee may be eligible for waiver or extension who, upon written application to the Board and for good cause shown, demonstrates that the applicant is unable to participate in a sufficient number of regular continuing education programs for license renewal.

E. Therapeutic Modalities. Usage of therapeutic modalities is permitted only by those chiropractors who have passed the National Board of Chiropractic Examiners (NBCE) physiotherapy exam or a substantially equivalent future NBCE examination. Chiropractors licensed in South Carolina prior to June 1, 1986, are exempt from this examination. Therapeutic modalities are limited to those modalities within the chiropractic scope of practice.

(1) Permitted Machines. The following machines are approved for use in therapeutic modalities:

- (a) high Frequency Diathermy: Shortwave diathermy, Microwave diathermy, Ultrasound;
- (b) low Frequency Direct current: Low voltage galvanism, High voltage galvanism;
- (c) alternating Current: Sine Wave, Faradic, Transcutaneous Stimulation;
- (d) medium Frequency Current: Interferential;

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- (e) combination currents: Ultrasound with sine, Ultrasound with high voltage, Sine with galvanism;
- (f) cold laser and intense pulse light (IPL) therapy;
- (g) such other machines as may be approved by the Board, in its discretion.

(2) The following therapy procedures are approved for use in therapeutic modalities:

- (a) heat: hot moist packs, heating pads, infrared, paraffin, ultraviolet;
- (b) cold: cold packs, ice massages, ice therapy;
- (c) hydrotherapy: whirlpool, hubbard tanks;
- (d) nutritional therapies;
- (e) exercise and massage;
- (f) rehabilitation and rehabilitative procedures;
- (g) manipulation under anesthesia.

(3) The following traction therapies are approved for use in therapeutic modalities: cervical, thoracic, lumbar, pelvic, intersegmental.

(4) Use of Diagnostic Equipment and Testing Procedures. A chiropractor may request diagnostic and testing procedures, consistent with all other applicable laws and regulations, and may perform those tests which are consistent with the chiropractic scope of practice as approved by the Board in its discretion.

### F. Terms and Definitions.

- (1) Accepted terms are Chiropractic Physician, D.C., Chiropractor, Doctor of Chiropractic.
- (2) Chiropractors may not refer to themselves as physical therapists or physiotherapists.

G. Licensees must report CE hours to the electronic tracking system designated by the South Carolina Department of Labor, Licensing and Regulation for CE compliance and monitoring. Licensees who fail to meet the CE requirements will be notified in writing of their deficit, ordered to cease practice, and advised to obtain CE. Failure of the CE audit results in a lapsed license. After the Board is in receipt of the approved CE credits, the Board staff will reinstate the license to active status.

The following sanctions will be imposed:

- (1) First Offense: Private Reprimand and \$500 administrative fee.
- (2) Second Offense: Hearing scheduled before the Board.
- (3) License will be retroactive once requirements have been met.

If evidence is received that the licensee continued to practice after an order to cease and desist from practice, the matter will be scheduled for a hearing before the Board, and the licensee will not be permitted to resume practice pending hearing and until further order of the Board.

## H. Manipulation Under Anesthesia (MUA)

(1) For purposes of this regulation, Manipulation Under Anesthesia (MUA) means a manipulation of the spinal column and its immediate articulations by a licensed practitioner (DC, MD or DO) of a patient who is under the administration of anesthesia performed by a physician licensed in this state who is Board certified or Board eligible in anesthesiology by the American Board of Medical Specialties or American Osteopathic Association.

(2) Manipulation under anesthesia (MUA) may be performed by a DC in collaboration with an MD or DO, as long as the MUA is performed in accordance with this regulation. MUA shall be performed by two practitioners (a doctor of chiropractic, “DC,” and a medical physician, “MD,” or doctor of osteopathic medicine, “DO”) who constitute the collaborative treatment team and have attained their certificates of training in MUA as described in this regulation. The two MUA practitioners must be in addition to the anesthesiologist. One practitioner must be designated primary practitioner; the second practitioner will serve as the first assistant. Practitioners, including MDs and DOs, performing MUA must be appropriately trained through a course of instruction approved by their respective boards.

(3) The practitioners must have proper training demonstrated by successful completion of a postgraduate educational course approved by their respective boards.

(4) The DC must have proper training demonstrated by successful completion of a postgraduate educational course approved by the Board or which has been approved by a Council on Chiropractic Education (CCE) accredited chiropractic college prior to performing the procedure.

(5) MUA must be performed in an appropriately licensed hospital or ambulatory surgical center or office based surgical facility approved by American Association of Ambulatory Surgery Facilities (AAASF); Accreditation Association for Ambulatory Health Care (AAAHC); the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or the Healthcare Facilities Accreditation Program (HFAP), a division of the American Osteopathic Association; or any other agency approved by the South Carolina Board of Medical Examiners in statute or regulation.

(6) The patient must receive a medical evaluation and clearance prior to undergoing MUA. It is the responsibility of the MD or DO to conduct an appropriate medical evaluation regarding the patient’s ability to undergo the procedure. A physician licensed and Board certified or Board eligible as a medical specialist in anesthesiology must complete an evaluation of the patient’s suitability for undergoing anesthesia in accordance with American Society of Anesthesiologists (ASA) standards of care for Monitored Anesthesia Care (MAC).

(7) It shall be the responsibility of the practitioners (DC, MD or DO) to submit their documentation of appropriate training in MUA to their respective boards in accordance with the established parameters of this regulation.

(8) Patient safety shall be of paramount concern, and shall be regulated by proper training, patients’ selection criteria, medical clearance for anesthesia, and by following the standards and protocols for the performance of MUA.

(9) Failure of a practitioner to follow the standard of care contained in this section while performing MUA shall constitute unprofessional conduct.

## 25-6. Professional Conduct.

A. Professional Acts. The following acts are not to be considered all-inclusive and are subject to revisions and additions necessary to carry out the Board’s purpose of protecting the health, safety and welfare of the public.

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(1) Limitation of Practice. Persons licensed by the Board shall be limited to:

- (a) the care and performance of therapeutic or hygienic treatment of patients;
- (b) the x-ray of patients; and
- (c) such other procedures as are generally used in the practice of chiropractic.

(2) Such other procedures as are generally used in the practice of chiropractic shall be limited to:

- (a) the use of diagnostic and therapeutic procedures;
- (b) the adjustment and manipulation of articulations; spinal and extra spinal
- (c) the treatment of inter-segmental disorders for alleviation of related neurological, muscular, and osseous joint complex aberrations.

(3) Patient care shall be conducted with due regard for environmental, hygiene, sanitation, rehabilitation and physiological therapeutic procedures designed to assist in the restoration and maintenance of neurological and osseous integrity.

(4) Diagnostic or therapeutic procedures shall not include the use of:

- (a) drugs;
- (b) surgery;
- (c) cauterization;
- (d) desiccation or coagulation of tissues;
- (e) rectal examinations;
- (f) gynecological examinations;
- (g) obstetrics;
- (h) catheterization with a needle;
- (i) injecting of dyes for radiological procedures;
- (j) lumbar puncture to obtain spinal fluid;
- (k) treatment of cancer or x-ray therapy.

(B) Unprofessional Acts. The following acts or activities by a licensee of this Board constitute unprofessional, unethical or illegal conduct and grounds for disciplinary action:

(1) Fraud or deceit in applying for a license or in taking an examination.

(2) Making misleading, deceptive, untrue or fraudulent representations or communications in the practice of chiropractic.

- (3) Unprofessional conduct, gross incompetence, negligence or misconduct in the practice of chiropractic.
- (4) Disobedience to a lawful rule or order of the Board.
- (5) Practicing while license is suspended or lapsed.
- (6) Being convicted of a felony or misdemeanor.
- (7) Having a license to practice chiropractic suspended, revoked or refused or receiving other disciplinary actions by the proper chiropractic licensing authority of another state, territory, possession or country.
- (8) Being unable to practice chiropractic with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material, or as a result of any mental or physical condition. In enforcing this paragraph, the Board shall, upon probable cause, have authority to compel a chiropractor to submit to a mental or physical examination by physicians approved by the Board.
- (9) Knowingly aiding, assisting, procuring or advising any unlicensed person to practice chiropractic contrary to this act or regulations of the Board.
- (10) Committing immoral or unprofessional conduct. Unprofessional conduct shall include any departure from, or failure to conform to, the standards of acceptable and prevailing chiropractic practice. Actual injury to a patient need not be established.
- (11) Improper charges, fraud. Improper charges constitute a form of fraudulent and deceptive practice. Improper charges or fraud may include, but are not limited to: Intentionally submitting to any third-party payor a claim for a service or treatment which was not actually provided to a patient.
- (12) A chiropractor shall not receive payment, commission, or any type of gratuity for referral of patients.

C. X-ray and Patient Records Release.

- (1) A patient or the patient’s legal representative has a right to receive a copy of patient records and x-rays, or have the records transferred, upon written request, when accompanied by a written authorization from the patient or patient’s representative to release the record and to receive these records within fourteen (14) calendar days of the date of request.
- (2) A chiropractor may rely on the representations of a health and life insurance carrier or administrator of health and life insurance claims that the authorization of the patient or of a person upon whose status the patient’s claim depends for release of the record is on file with the carrier as an authorization to release medical information.
- (3) Unpaid charges incurred by the patient are not grounds for refusal to release records.
- (4) A chiropractor may charge reasonable costs for copying patient records not to exceed those found in statute.

D. Closure of or departure from a chiropractic practice.

- (1) In accordance with 25-6(F), when departing or closing a chiropractic practice, current and former patients and the Board must be notified by written or electronic mail correspondence and post to any existing websites a minimum of sixty (60) days prior to the closure. The notice must include:
  - (a) the office closing date;



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- (b) where records will be stored;
- (c) how to obtain records;
- (d) a release of information form
- (e) deadline for submitting records request; and
- (f) information on how to contact a new chiropractor/healthcare provider.

(2) An announcement should be placed in the local newspaper of the closure at least sixty (60) calendar days prior to the closure.

E. In the event the chiropractor chooses to terminate the relationship with the patient and no longer plans to provide or render professional services, the patient shall be notified in writing by certified mail at his or her last known address. The chiropractor shall offer the patient a referral to seek other care and the ability to obtain his or her records.

F. Specialty Certification. Practitioners may not advertise or hold themselves out as a specialist or specializing in any activity unless the practitioner is certified from:

- (1) a specialty council approved by the American Chiropractic Association or International Chiropractors Association;
- (2) a specialty taught by a chiropractic college accredited by the Council on Chiropractic Education, or its equivalent specialty board or council; or
- (3) a specialty approved by the Board.

G. Chiropractic Records. A practitioner must keep written chiropractic records justifying the course of treatment of the patient for a minimum of ten (10) years for adult patients and at least thirteen (13) years for minors. These minimum record-keeping periods begin on the last date of treatment.

H. Contagious and Infectious Diseases. In all cases of known or suspected contagious or infectious diseases occurring within this State, the attending practitioner shall report such disease to the county health department within twenty-four (24) hours, stating the name and address of the patient and the nature of the disease.

- (1) The Department of Health and Environmental Control shall designate the diseases it considers contagious and infectious.
- (2) Any practitioner who fails to comply with this provision is subject to penalties imposed by the appropriate health department.

### 25-8. Advertising and Solicitation.

A. Professional Standards. Advertising practices by chiropractors should be ethical and professional. The individual chiropractor is responsible for ensuring that communications, solicitations, or advertisements connected to his or her practice of chiropractic comply with this regulation.

B. For the purpose of this regulation, the terms communication, solicitation or advertisement shall mean any message, written or digital broadcast to include social media platforms or offer made by or on behalf of a licensee.

C. Signs, solicitations, or advertisements shall clearly indicate that chiropractic services are being offered.

D. A communication, solicitation or advertisement shall not:

(1) contain a material misrepresentation of fact or law, or omit a fact necessary to make the statement considered as a whole not materially misleading;

(2) create an unjustified expectation about results the chiropractor can achieve, or state or imply that the chiropractor can achieve results that violate the rules of Professional Conduct, the Code of Ethics, or other law;

(3) compare the chiropractor's services with other chiropractors' or practitioners' services, unless the comparison can be factually substantiated;

(4) fail to indicate clearly, expressly or by context, that it is an advertisement;

(5) involve intrusion, coercion, duress, compulsion, intimidation, threats, or harassing conduct, particularly those communications requiring an immediate response such as in-person or live telephone contact;

(6) solicit a prospective patient while transmitted at the scene of an accident or en route to a hospital, emergency care center or other health care facility;

(7) advertise free x-ray services without explanation of need or otherwise imply indiscriminate use of x-radiation.

E. Every licensee shall display prominently in the licensee's office the word chiropractor or D.C.

#### 25-9. Disciplinary Actions and Procedures.

A. Complaint; Determination of Just Cause. Any action of the Board shall commence only after the Board receives a written complaint. If the Board determines, after a preliminary investigation, the facts are not sufficient to support an alleged violation, the Complainant will be notified, and the complaint dismissed.

(1) Initial complaints regarding alleged professional misconduct that involve what may be determined to be an imminent threat to the public, incorporating a finding to that effect in an order, may require the issuance of a temporary suspension order. A temporary suspension order may be issued without a prior hearing being afforded to the licensee.

The fact of suspension or restriction of a license, and the fact of any subsequent related action, is public information under the Freedom of Information Act after issuance of an order, unless a review by the administrative hearing officer has been timely requested in writing.

Filing a written request for a review by the administrative hearing officer does not stay the temporary suspension and no stay may be issued; however, the fact of the issuance of the temporary suspension order must not be made public until the time for requesting a review has passed or the administrative hearing officer issues an order after a review hearing. Upon proper written request, a review hearing must be held by the administrative hearing officer within three business days of the filing of the request for review, unless otherwise agreed by the parties. If the issuance of the temporary suspension order is not sustained by the administrative hearing officer, the matter must remain confidential and must not be made public, except to the extent the Board considers it relevant to the final decision of the Board.

B. Formal Complaint and Board Hearing. If the Board determines sufficient facts exist to support an alleged violation, disciplinary action will proceed as follows:

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(1) The Office of General Counsel shall provide thirty (30) days' notice to the Complainant and the Respondent and schedule a hearing before the Board.

(2) The General Counsel's office shall present the case for the Complainant before the Board.

(3) The Respondent and counsel shall have the right to appear before the Board at such hearing, submit briefs and be heard in oral argument.

(4) Thereafter, the Board will file a final certified report of its findings of fact, conclusions of law and disciplinary action to be taken.

(5) The Board will notify the Complainant and the Respondent of such action.

(6) A decision by the Board to revoke, suspend or otherwise restrict a license, or to limit or otherwise discipline a licensee, shall require a majority vote by the Board.

(7) A decision by the Board to revoke, suspend or otherwise restrict a license or to limit or otherwise discipline a licensee, or one who is found to be practicing chiropractic in noncompliance with this chapter shall not become effective until the tenth (10) day following the date of delivery to the Respondent of a written copy of the decision. The Board's decision will constitute a final administrative decision.

C. Appeal of Decision. The Board's final administrative decision shall be subject to appeal to the Administrative Law Court. The Respondent shall serve notice of the appeal upon the Board within thirty (30) days from the delivery date of the Board's decision to the Respondent. Service of a petition for a review of the decision shall stay the Board's decision pending completion of the appellate process.

D. Proceedings Confidential Until Filed. As authorized by Sections 40-9-97 and 30-4-70, S. C. Code of Laws 1976, unless and until otherwise ordered by this Board, all proceedings and documents relating to complaints and hearings thereon and to proceedings in connection therewith shall be confidential, unless the Respondent shall in writing request that they be public. The Administrator of the Board shall keep secure in the Board's offices all written records and documents pertaining to disciplinary procedures.

E. A license that has been on inactive status for more than six (6) years automatically expires if the licensee has not applied to renew the license.

F. A lapsed or expired license may not be placed on inactive status and can only be reinstated as required in regulation.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

The updated regulations would allow applicants to qualify for licensure by passing another state's practical exam; would grant a CE exemption for chiropractors age 60 or older who have been licensed for 30 or more years; would allow chiropractors serving on active duty for more than 180 consecutive days to apply for a CE exemption; would broaden the description of the CE waiver granted for illness or hardship; would replace a \$2000 fine for violating the CE audit with a \$500 administrative fee and would allow retroactive licensure upon satisfying sanctions; would clarify what is considered unprofessional conduct; would modernize office closure procedures to include posting on websites; would include social media platforms within the description of digital broadcast; and would remove a time frame for requesting review of a temporary suspension order.

Document No. 5244  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**STATE LICENSING BOARD FOR CONTRACTORS**  
 CHAPTER 29  
 Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-11-60

- 29-1. Examination Requirements; Classifications.
- 29-3. Financial Statements.
- 29-5. Construction Management Licensure Requirements.
- 29-10. Mechanical Contractors Licensure Requirements.

**Synopsis:**

The South Carolina Contractor’s Licensing Board proposes to amend its regulations to conform to the requirements as set forth in 2023 S.C. Act No. 69, passed by the General Assembly in May 2023 and to make necessary changes following its five-year regulatory review required by S.C. Code Section 1-23-120(J).

The Notice of Drafting was published in the *State Register* on July 28, 2023.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

ARTICLE 1

GENERAL RULES AND BY-LAWS

- 29-1. Examination Requirements; Classifications.

The following classifications require passage of a technical examination, approved by the board:

- (1) building:
  - (a) limited building contractor examination, license groups one, two, and three;
  - (b) commercial building contractor examination, license groups four and five;
- (2) bridges;
- (3) grading;
- (4) asphalt paving;
- (5) concrete paving;
- (6) concrete;
- (7) nonstructural renovation;
- (8) marine;

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- (9) pre-engineered metal buildings;
- (10) public utility electrical;
- (11) structural framing;
- (12) general roofing;
- (13) swimming pools;
- (14) wood frame structures;
- (15) pipe lines;
- (16) water and sewer lines;
- (17) water and sewer plants;
- (18) packaged equipment;
- (19) air conditioning;
- (20) electrical;
- (21) heating;
- (22) lightning protection systems;
- (23) plumbing;
- (24) pressure and process piping;
- (25) refrigeration;
- (26) boilers;
- (27) such other classifications as the board may designate.

### 29-3. Financial Statements.

(A) Where an applicant is required to have a financial statement submitted by a certified public accountant, the board may accept a financial statement based on “Other Comprehensive Basis of Accounting” (OCBOA) or on an accepted international accounting standard, only if the certified public accountant expressly indicates in the financial statement that the financial requirements for licensure would be met if the financial statement had been prepared according to “General Accepted Accounting Principles” (GAAP).

(B) Financial statements must be submitted in English.

(C) The board may accept a financial statement based upon a foreign currency if the applicant provides adequate documentation that shows the net worth or working capital of the company, converted to United States dollars, meets or exceeds the net worth or working capital and other financial requirements of the appropriate license group in which the applicant is applying.

(D) Owner-prepared financial statements must be submitted on the form prescribed by the board. The Department will furnish this form to all applicants for initial licensing or renewal in the applicable group limitations. The form must contain assets, liabilities and total net worth or working capital of the licensee. Internal balance sheets or ledgers are not acceptable forms of financial documentation.

#### 29-5. Construction Management Licensure Requirements.

(A) An architectural or engineering entity acting as a construction manager shall file an application with the department designating one professional license of a full-time employee employed by the entity to qualify the entity for the practice of construction management pursuant to Section 40-11-320.

(1) The application shall ask the department to list the entity as a construction manager. The application shall include the following: the applicant's name and license number to be listed as a construction manager; the name should be the exact name used by the applicant when conducting business on a daily basis; list the type of license and license number of the employee qualifying the entity as a construction manager.

(2) The entity requesting to act as a construction manager shall submit a financial statement meeting the requirements of Section 40-11-260 or a surety bond meeting the requirements of Section 40-11-262 with the application.

(B) A general or mechanical contractor acting as a construction manager shall file an application with the department designating one of their primary qualifying parties as the employee that will qualify the entity for the practice of construction management. The entity shall comply with the other requirements of this regulation.

#### 29-10. Mechanical Contractors Licensure Requirements.

(A) Any mechanical contractor with a process piping classification that was licensed prior to April 1, 1999, may install boilers and engage in any activity involving boiler maintenance, repair, or inspection. Any mechanical contractor issued an initial license with a process piping classification on or after April 1, 1999, may not engage in any boiler work requiring a license unless he has a mechanical contractors heating classification.

(1) Licensees licensed prior to April 1, 1999, will be listed as a 1P process piping license classification.

(2) Licensees licensed on or after April 1, 1999, will be listed as a 2P process piping license classification.

(B) Any general contractor with a public electrical utility classification who was licensed prior to April 1, 1999, may install athletic field lighting, stadium lighting, or lighting which is on public easements or rights-of-way. Any general contractor issued an initial license with a public electrical utility classification on or after April 1, 1999, may not engage in this work.

(1) Licensees licensed prior to April 1, 1999, will be listed as a 1U public electrical utility license classification.

(2) Licensees licensed on or after April 1, 1999, will be listed as a 2U public electrical utility license classification.

(C) Any contractor licensed under (A)(1) or (B)(1) above who has not actively maintained their license, or continuously employed a properly qualifying party for the entity, or whose license has been canceled or revoked shall not be eligible thereafter to obtain a 1P or 1U classification.

(D) Any qualifying party listed under the 1P or 1U classification who leaves employment of the entity he is currently qualifying, shall not be eligible thereafter to obtain 1P or 1U classification.

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### Fiscal Impact Statement:

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

### Statement of Rationale:

The updated regulations will conform to the requirements of 2023 S.C. Act No. 69, passed by the General Assembly in May 2023. The regulations will also changes following a review of the Board regulations as required by S.C. Code Section 1-23-120(J).

Document No. 5246  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**SOUTH CAROLINA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS**  
**AND LAND SURVEYORS**  
CHAPTER 49

Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-22-50, and 40-22-60

49-201. Professional Land Surveyor Licensure Requirements.

### Synopsis:

The Board of Registration for Professional Engineers and Land Surveyors proposes to amend R.49-201 to correct a scrivener's error.

A Notice of Drafting was published in the *State Register* on August 25, 2023.

### Instructions:

Print the regulation as shown below. All other items remain unchanged.

### Text:

49-201. Professional Land Surveyor Licensure Requirements.

A. Qualifying Experience and Documentation.

(1) Experience must be obtained under the supervision of a registered professional surveyor and must be of a character satisfactory to the Board.

(2) Qualifying experience approved by the Board is experience beyond elementary surveying duties such as rodman and other unskilled tasks. In order for work to be considered as qualifying experience, an advanced level of responsibility must have been placed on the applicant. Responsibility should involve mature judgment and expertise gained in such job assignments as instrument man, assistant crew chief or crew chief. Work claimed as qualifying experience should demonstrate a sound working knowledge of surveying with respect to research (records and field), instrumentation, note-keeping and data management, calculations and mapping.

(3) An experience record in boundary and route surveying, topographical surveying, construction surveying, control/geodetic surveying, and rights-of-way surveying is beneficial to the applicant in the Board's evaluation of the application. Recognizing that boundary surveys are the types of surveys which more critically affect the public welfare, experience in boundary surveys should constitute a significant portion of the applicant's experience record and will be given more weight by the Board in considering an applicant's qualifications for licensure.

(4) An applicant must submit copies of three different maps and plats of land surveys on which he has worked. The documents must be signed by the professional land surveyor who supervised the work and contain a statement describing that part of the work done by the applicant. Submitted plats and maps must meet the requirements of the Standards of Practice Manual for Surveying in South Carolina, Chapter 49, Article 4, of the Code of Regulations, in effect at the time of licensure.

(5) An applicant must submit five references as to the applicant's character and quality of work, three or more must be registered land surveyors having personal knowledge of the applicant's qualifications.

#### B. Examination Requirements—Land Boundary Surveyor.

(1) An applicant applying for certification as land surveyor-in-training must take and pass a written examination on the Fundamentals of Surveying (FS), prepared and graded by the NCEES.

(2) An applicant applying for licensure as a TIER A land boundary surveyor must have taken and passed the FS written examination and must take and pass the Principles and Practice of Surveying (PS), prepared and graded by the NCEES, and a South Carolina State Specific Surveying examination.

(3) A person licensed as a professional land boundary surveyor may practice as a professional photogrammetric surveyor only by meeting the requirements as described in the section R.49-201C of this Chapter, and may practice as a professional GIS surveyor only by meeting the requirements as described in the section R.49-201D of this Chapter.

#### C. TIER A Professional Photogrammetric Surveyor.

(1) After June 30, 2004, any person applying for licensure as a photogrammetric surveyor must meet the following requirements:

##### (a) Education Requirement—Photogrammetric Surveyor.

1. Education must be evaluated by an Education Consultant and approved by the Board before an application can be considered for further processing.

2. In addition to one of the following degrees, an applicant must submit proof of satisfactorily completing not fewer than 12 semester hours, or the equivalent in quarter hours, of course work specific to the discipline of photogrammetric surveying, satisfactory to the Board:

a. Four-year engineering or bachelor of science degree in a related field from a program accredited by the Related Accreditation Commission (RAC) or the Accreditation Board for Engineering and Technology (ABET).

b. Four-year civil engineering technology degree from a program accredited by the Technology Accreditation Commission (TAC) of ABET.

c. Four-year related baccalaureate degree, or equivalent degree, approved by the Board.

##### (b) Experience Requirement—Photogrammetric Surveyor.

###### 1. Photogrammetric Surveyor-in-Training.

a. An applicant applying for certification as a photogrammetric surveyor-in-training who meets the four-year education requirements must have one year of progressive practical experience.



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### 2. Photogrammetric Surveyor.

a. An applicant applying for licensure as a photogrammetric surveyor who meets the four-year education requirements must have four years of progressive practical experience.

### 3. Qualifying Experience and Documentation.

a. Experience must be obtained under supervision of a licensed photogrammetric surveyor or a recognized professional in the field of photogrammetry and must be of a character satisfactory to the Board.

b. Qualifying experience approved by the Board is experience beyond elementary level activities. In order for work to be considered as qualifying experience, an advanced level of responsibility must have been placed on the applicant. Work claimed as qualifying experience should demonstrate a sound working knowledge of photogrammetry.

c. At least two years of the required experience must have been at the professional level in responsible charge of photogrammetric mapping projects meeting ASPRS Accuracy Standards.

d. The applicant must submit proof of employment in responsible charge of at least one project as a photogrammetrist. Maps and documents satisfactory to the Board detailing methods, procedures, amount of applicant's personal involvement must be submitted to document this project. These maps and documents must be signed by the professional who supervised the work and contain a statement describing the part or the work performed by the applicant. The applicant must submit the name, address and telephone number of references to verify this information.

e. An applicant must submit five references as to the applicant's character and quality of work, three or more must be licensed surveyors or practicing professionals in the field of photogrammetry, having personal knowledge of the applicant's photogrammetric surveying experience.

### (c) Examination Requirements—Photogrammetric Surveyor.

1. An applicant applying for certification as a photogrammetric surveyor-in-training must take and pass a written examination on the Fundamentals of Surveying (FS), prepared and graded by the NCEES.

2. An applicant applying for licensure as a photogrammetric surveyor must have taken and passed the FS examination and must take and pass an examination on the principles and practice of photogrammetry and an examination on the Board's rules and regulations as referred to in the section R.49-104B(5) of this Chapter.

(2) A person licensed as a professional photogrammetric surveyor may practice as a professional land boundary surveyor only by meeting the requirements of the section R.49-201A of this Chapter, and may practice as a professional GIS surveyor only by meeting the requirements of the section R.49-201D of this Chapter.

### D. TIER A Professional Geographic Information System (GIS) Surveyor.

#### (1) Education Requirement—GIS Surveyor.

(a) Education must be evaluated by an Education Consultant and approved by the Board before an application can be considered for further processing.

(b) In addition to one of the following degrees, an applicant must also submit evidence of completion of discipline specific courses of not fewer than 12 semester hours or the equivalent in quarter hours satisfactory to the Board.

1. Four-year baccalaureate degree in a related field from a program accredited by the Accreditation Board for Engineering and Technology (ABET).

2. Four-year civil engineering technology degree from a program accredited by the Technology Accreditation Commission (TAC) of ABET.

3. Four-year related baccalaureate degree, or equivalent degree, approved by the Board.

(c) Experience Requirements—GIS Surveyor.

1. Geographic Information System Surveyor-in-Training.

a. An applicant applying for certification as geographic information system surveyor-in-training who meets the four-year education requirements must have one year of progressive practical experience.

2. Geographic Information System Surveyor.

a. An applicant applying for licensure as a geographic information system surveyor who meets the four-year education requirements must have four years of progressive practical experience.

b. An applicant applying for licensure as a geographic information system surveyor who holds a master's degree in surveying, geography, or a related field of study approved by the Board must have three years of practical experience.

3. Qualifying Experience and Documentation.

a. Experience must be obtained under supervision of a licensed geographic information system surveyor or a recognized professional in the field of GIS and must be of a character satisfactory to the Board.

b. Qualifying experience approved by the Board is experience beyond elementary level activities. In order for work to be considered as qualifying experience, an advanced level of responsibility must have been placed on the applicant. Work claimed as qualifying experience should demonstrate a sound working knowledge of GIS.

c. At least two years of the required experience must have been at the professional level in responsible charge of geographic information system mapping projects.

d. The applicant must submit proof of employment in responsible charge of at least one project as a GIS Surveyor. Maps and documents, satisfactory to the Board, detailing methods, procedures, amount of applicant's personal involvement must be submitted to document this project. The map and related project information submitted must include the project information.

e. Maps and documents must be signed by the professional who supervised the work and contain a statement describing the part or the work done by the applicant. The applicant must submit appropriate contact information including the name, address and telephone number of references to verify this information.

f. An applicant must submit five references as to the applicant's character and quality of work; three or more must be licensed surveyors or practicing professionals in the field of GIS having personal knowledge of the applicant's GIS surveying experience.

(d) Examination Requirements—GIS Surveyor.

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1. An applicant applying for certification as geographic information system surveyor-in-training must take and pass the written examinations on the Fundamentals of Surveying (FS), prepared and graded by the NCEES.

2. An applicant applying for licensure as a geographic information system surveyor must have taken and passed the FS examination and must take and pass an examination on the principles and practice of geographic information systems and pass an examination on the Board's rules and regulations.

### E. TIER B Professional Land Surveyor.

(1) An applicant shall be licensed as a TIER A Land Boundary Surveyor prior to submitting an application for licensure or registration as a TIER B Land Surveyor.

(2) An applicant must meet the requirements of education, experience and examinations.

(a) Education—Tier B Land Surveyor.

An applicant must meet the education requirements in S.C. Code Ann. Section 40-22-225(D).

(b) Experience—Tier B Land Surveyor.

1. Applicant must have qualifying experience acceptable to the Board in the design of storm drainage systems and preparation of sedimentation and erosion control plans associated with the development of residential subdivisions.

2. The experience must be obtained under the supervision of a licensed Tier B surveyor or a licensed professional engineer.

(c) Examinations—TIER B Land Surveyor.

1. An applicant must have taken and passed the written examinations required for licensure as a TIER A Land Boundary Surveyor which include the FS and PS examinations, prepared and graded by the NCEES, and the State Specific Land Surveying Examination.

2. An applicant must also take and pass a special written examination pertaining to the practice of TIER B land surveying in the State which includes the design of storm drainage systems and preparation of sedimentation and erosion control plans associated with the development of residential subdivisions.

(3) A TIER B land surveyor may practice as a professional photogrammetric surveyor only by meeting the requirements of the section R.49-201C of this Chapter, and may practice as a professional GIS surveyor only by meeting the requirements of the section R.49-201D of this Chapter.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

The Board of Registration for Professional Engineers and Land Surveyors proposes to amend R.49-201 to correct a scrivener's error. Specifically, R.49-201B(3) should be revised to reference R.49-201C as opposed to 201D and R.49-201E should be revised to reference R.49-201D.

Document No. 5245  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**SOUTH CAROLINA ENVIRONMENTAL CERTIFICATION BOARD**  
 CHAPTER 51

Statutory Authority: 1976 Code Sections 40-1-70 and 40-23-60

- 51-1. Applications for Certification.
- 51-3. Levels of Licensure, Requirements for Each Level, Operator-in-Charge Requirements for Facilities.
- 51-4. Renewal of License and Permit, Continuing Education.
- 51-5. Operator-in-Training Licenses.
- 51-6. Fees.
- 51-8. Reciprocity. (New)

**Synopsis:**

The South Carolina Environmental Certification Board proposes to amend its regulations in conformance with its practice act following its regulatory review prescribed by S.C. Code Section 1-23-120.

The Notice of Drafting was published in the *State Register* on April 28, 2023.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

51-1. Applications for Certification.

Any person who desires to become certified by the board must make application on the proper form. The board on request will furnish this form. The application for initial certification must be accompanied by a nonrefundable fee as specified in 51-6. An application that is not completed by the applicant within twelve (12) months of receipt by the board shall expire.

51-3. Levels of Licensure, Requirements for Each Level, Operator-in-Charge Requirements for Facilities.

A. The board shall certify qualified applicants in accordance with the levels of licensure defined in this article. In each case, the applicant must meet at least the minimum experience requirements set for the level of licensure being sought. Further, each applicant must comply with the examination requirements, as established in 51-2, relevant to the level of licensure desired except as provided in 51-8.

B. An applicant's education, both degree-related and non-degree-related, may be considered by the board in determining whether the applicant meets the experience requirements for licensure. However, no applicant shall receive a graded certificate without having completed at least one (1) year of actual operating experience. This applies for "C", "B" and "A" level licensure only.

C. There will be no additional application fee for an operator to progress from a lower license to a higher one. However, an examination fee will be charged for each examination taken by an applicant.

D. Licensees and applicants are responsible for notifying the board within fifteen (15) days, whenever they change employers and their position requires a certification which they do not currently possess.

E. The levels of licensure for water treatment plant and water distribution operators, and the requirements for each level, are defined in Section 40-23-300, South Carolina Code of Laws, 1976 as amended.

F. The levels of licensure for physical/chemical wastewater treatment plant operators, and the requirements for each level, are defined as:

1. To be licensed by the board as a "Trainee" physical/chemical wastewater treatment plant operator an applicant must:

a. submit an application on forms approved by the board and the prescribed fee.

2. To be licensed by the board as "D" physical/chemical wastewater treatment operator an applicant must:

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- a. hold a valid “Trainee” License;
  - b. have a high school diploma or the equivalent;
  - c. pass an examination approved by the board;
  - d. have completed at least one (1) year of actual operating experience at a physical/chemical wastewater facility, or the equivalent; and,
  - e. submit an affidavit of employment documenting the experience.
3. To be licensed by the board as a “C” physical/chemical wastewater treatment plant operator an applicant must:
- a. hold a valid “D” License;
  - b. pass an examination approved by the board;
  - c. have completed at least two (2) years of actual operating experience at a physical /chemical wastewater facility, or the equivalent; and,
  - d. submit an affidavit of employment documenting the experience.
4. To be licensed by the board as a “B” physical/chemical wastewater treatment plant operator an applicant must:
- a. hold a valid “C” License;
  - b. pass an examination approved by the board;
  - c. have completed at least three (3) years of actual operating experience at a physical/chemical wastewater facility, or the equivalent; and,
  - d. submit an affidavit of employment documenting the experience.
5. To be licensed by the board as an “A” physical/chemical wastewater treatment plant operator an applicant must:
- a. hold a valid “B” License;
  - b. pass an examination approved by the board;
  - c. have completed at least four (4) years of actual operating experience at a physical/chemical wastewater facility, or the equivalent; and,
  - d. submit an affidavit of employment documenting the experience.
- G. The levels of licensure for biological wastewater treatment plant operators, and the requirements for each level, are defined as:
1. To be licensed by the board as a “Trainee” biological wastewater treatment plant operator an applicant must:
    - a. submit an application on forms approved by the board and the prescribed fee.
  2. To be licensed by the board as a “D” biological wastewater treatment plant operator an applicant must:
    - a. hold a valid “Trainee” License;
    - b. have a high school diploma or the equivalent;
    - c. pass an examination approved by the board;
    - d. have completed at least one (1) year of actual operating experience at a biological wastewater facility, or the equivalent; and,
    - e. submit an affidavit of employment documenting the experience.
  3. To be licensed by the board as a “C” biological wastewater treatment plant operator an applicant must:
    - a. hold a valid “D” Operator License;
    - b. pass an examination approved by the board;
    - c. have completed at least two (2) years of actual operating experience at a biological wastewater facility, or the equivalent; and,
    - d. submit an affidavit of employment documenting the experience.
  4. To be licensed by the board as a “B” biological wastewater treatment plant operator an applicant must:
    - a. hold a valid “C” License;
    - b. pass an examination approved by the board;
    - c. have completed at least three (3) years of actual operating experience at a biological wastewater facility, or the equivalent; and,
    - d. submit an affidavit of employment documenting the experience.
  5. To be licensed by the board as an “A” biological wastewater treatment plant operator an applicant must:
    - a. hold a valid “B” License;

- b. pass an examination approved by the board;
- c. have completed at least four (4) years of actual operating experience at a biological wastewater facility, or the equivalent; and,
- d. submit an affidavit of employment documenting the experience.

H. The operator-in-charge of a biological wastewater treatment plant classified by the Department of Health and Environmental Control as requiring the services of a licensed operator must hold licensure as a biological wastewater treatment plant operator at a level no lower than the level of license designated for the classification or grouping assigned the plant by the Department of Health and Environmental Control:

- 1. Group IB wastewater treatment plants require an operator with at least a “D” license.
- 2. Group IIB wastewater treatment plants require an operator with at least a “C” license.
- 3. Group IIIB wastewater treatment plants require an operator with at least a “B” license.
- 4. Group IVB wastewater treatment plants require an operator with at least an “A” license.

I. The operator-in-charge of a physical/chemical wastewater treatment plant classified by the Department of Health and Environmental Control as requiring the services of a certified operator must hold licensure as a physical/chemical wastewater treatment plant operator at a level no lower than the level of licensure designated for the classification or grouping assigned the plant by the Department of Health and Environmental Control.

- 1. Group I-P/C wastewater treatment plants require an operator with at least a “D” Physical/Chemical license.
- 2. Group II-P/C wastewater treatment plants require an operator with at least a “C” Physical/Chemical license.
- 3. Group III-P/C wastewater treatment plants require an operator with at least a “B” Physical/Chemical license.
- 4. Group IV-P/C wastewater treatment plants require an operator with at least an “A” Physical/Chemical license.

J. Actual operating experience shall be verified by an affidavit.

#### 51-4. Renewal of License, Continuing Education.

A. Each license issued by the board shall be renewed annually or biennially on or before June 30. Any license not renewed within three hundred sixty-five (365) days of the date on which the license expired shall be considered lapsed and declared nonrenewable.

B. The board shall charge a renewal fee, the amount of such fee to be fixed by the board, in accordance with 51-6. Renewal applications received between July 1 and June 30 of the following year shall be subject to a reinstatement fee of two hundred dollars (\$200.00).

C. A person who practices while a license is lapsed may be fined up to five hundred dollars (\$500.00).

D. A certificate revoked for cause by the board may be reinstated only by action of the board.

E. Each applicant applying for renewal of any license must provide evidence of having completed twelve (12) hours of relevant continuing education every two (2) years. Alternatively, in accordance with 40-23-230(C)(3), a licensee may demonstrate compliance with the current continuing education requirements after the department renews the license, provided they do not engage in licensed activity until completion of the continuing education requirement. Continuing education credit shall be in accordance with Continuing Education Guidelines as approved by the board. In lieu of continuing education, the applicant may take and pass the appropriate examination for their license grade.

F. Individuals who are at least sixty-two (62) years old and have thirty (30) or more years of licensed experience may request a waiver of the continuing education requirement by submitting a waiver form to the board.

#### 51-5. Operator-in-Training Licenses.

Biological Wastewater Operators, Physical/Chemical Wastewater Operators, Water Treatment Operators, and Water Distribution Operators.

A. For biological wastewater treatment operators, physical/chemical wastewater treatment operators, water treatment operators, and water distribution operators the board shall issue “trainee” licenses for new personnel with qualifications as stated in 51-3. Operation under this license shall always be under the direct supervision of

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a legally licensed operator of the proper grade. All applications must be endorsed by the applicant's chief operator, or operator-in-charge.

### 51-6. Fees.

The board may charge fees as shown in South Carolina Code of Regulations Chapter 10-15.

### 51-8. Reciprocity.

As used in S.C. Code Section 40-23-240(B):

A. The board may license a person who is currently credentialed in another jurisdiction of the United States for licensed activities regulated by this chapter if the person demonstrates to the satisfaction of the board that they possess credentials, education, and experience that are the substantial equivalent of the requirements of this chapter for the licensed activity in question.

B. Upon receipt of an application for reciprocity, the board staff shall make a determination of completeness and either (1) approve, (2) deny, or (3) submit it to the relevant board member for a determination.

C. The relevant board member shall either (1) approve, (2) deny, or (3) refer the request to the full Environmental Certification Board for a decision at their next regularly-scheduled meeting.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

The updated regulations are updated will conform to the Board's practice act.

Document No. 5187

## **DEPARTMENT OF LABOR, LICENSING AND REGULATION STATE BOARD OF REGISTRATION FOR FORESTERS**

### **CHAPTER 53**

Statutory Authority: 1976 Code Sections 40-1-70, 48-27-80, 48-27-140, and 48-27-190

### 53-4. Quorum.

### **Synopsis:**

The South Carolina Board of Registration for Foresters proposes to amend the definition of "quorum" in R.53-4 to be consistent with the definition appearing in the Freedom of Information Act (FOIA), S.C. Code Section 30-4-20(e).

A Notice of Drafting was published in the *State Register* on February 24, 2023.

### **Instructions:**

Print the regulation as shown below. All other items remain unchanged.

### **Text:**

### 53-4. Quorum.

A quorum means a simple majority of the constituent membership of a public body.

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

This regulation will be amended to be consistent with the definition of “quorum” appearing in the Freedom of Information Act (FOIA), S.C. Code Section 30-4-20(e).

Document No. 5234  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**STATE BOARD OF MEDICAL EXAMINERS**

CHAPTER 81

Statutory Authority: 1976 Code Sections 40-1-70, 40-47-10, 40-47-110, and 40-47-1720

- 81-500. Powers and Duties of Athletic Trainers’ Advisory Committee. (New)
- 81-501. Renewal and Reinstatement of License. (New)
- 81-502. Change of Name or Address. (New)
- 81-503. Standards of Conduct. (New)
- 81-505. Patient Care. (New)
- 81-507. Code of Ethics and Professional Standards. (New)

**Synopsis:**

The South Carolina Board of Medical Examiners proposes adding regulations for athletic trainers as required by 2023 Act No. 77.

A Notice of Drafting was published in the *State Register* on July 28, 2023.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

81-500. Powers and Duties of Athletic Trainers’ Advisory Committee.

(A) The committee:

- (1) may recommend regulations relating to professional conduct and continuing professional education of athletic trainers to the Board to carry out the provisions of this article;
- (2) shall conduct hearings and keep records and minutes necessary to carry out its functions;
- (3) shall provide notice of all hearings authorized under this article pursuant to the Administrative Procedures Act;
- (4) shall determine the qualifications of and make recommendations regarding the issuance of licenses to qualified athletic trainers when necessary;
- (5) shall recommend to the Board whether to issue or renew licenses under those conditions prescribed in this article;
- (6) shall report annually to the Board on duties performed, actions taken, and recommendations;
- (7) shall hear disciplinary cases and recommend findings of fact, conclusions of law, and sanctions to the Board. The Board shall conduct a final hearing at which it shall make a final decision; and
- (8) shall perform such duties and tasks as may be delegated to the committee by the Board.

81-501. Renewal and Reinstatement of License.



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(A) Licenses shall be issued with a uniform expiration date and shall remain active for a period of two years. A licensee may renew the license beginning three months before the expiration date. If a licensee fails to renew the license before the expiration date, the license is deemed lapsed and practice must cease until the license is renewed. A late renewal period shall exist for a period of three months from the expiration date, during which time the licensee may late renew upon payment of the renewal fee and a late renewal fee.

(B) Upon expiration of the late renewal period, a licensee may apply for reinstatement of the license, including payment of the reinstatement fee, the current renewal fee, and demonstration of continued competency to the satisfaction of the committee. The committee may recommend denial of reinstatement to a licensee who has committed an act that would be grounds for discipline.

### 81-502. Change of Name and Address.

A licensee shall notify the Board in writing within 45 business days of any change of his or her name, residential address, office address, email address(es) and/or telephone number(s). A licensee requesting a name change must submit appropriate documentation such as a marriage certificate, a court order, or a divorce decree.

### 81-503. Standards of Conduct.

(A) In addition to the grounds provided in South Carolina Code Section 40-1-110, upon finding misconduct that constitutes one or more of the grounds for disciplinary action, the Board of Medical Examiners may cancel, fine, suspend, revoke, issue a private or public reprimand or restrict, including probation or other reasonable action, such as requiring additional education or training or limitation on practice, the authorization to practice of an athletic trainer who has engaged in misconduct.

(B) "Misconduct" that constitutes grounds for disciplinary action is a showing to the Board by the preponderance of evidence that a licensee has:

(1) used a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act in connection with any of the certification requirements or official documents required;

(2) been convicted of, pled guilty to, or pled nolo contendere to a felony or violated a federal, state, or local law involving alcohol or drugs;

(3) been addicted to alcohol or drugs to such a degree as to render the licensee unfit to perform as an athletic trainer;

(4) sustained a physical or mental disability that renders further practice dangerous to the public or attempted to practice when judgment or physical ability is impaired by mental illness, alcohol, drugs, or other substances;

(5) obtained fees or assisted in the obtaining of such fees under dishonorable, false, or fraudulent circumstances;

(6) engaged in dishonorable, unethical, or unprofessional conduct that is likely to deceive, defraud, or harm the public;

(7) disregarded an order by a physician concerning care or treatment of a patient;

(8) after initiating care of a patient, discontinued such care or abandoned the patient without the patient's consent or without providing for the further administration of care by an equal or higher medical authority;

(9) revealed confidences entrusted to him or her in the course of medical attendance, unless such revelation is required by law or is necessary in order to protect the welfare of the patient or the community;

(10) by action or omission, and without mitigating circumstance, contributed to or furthered the injury or illness of a patient under the care of an athletic trainer;

(11) performed skills above the level for which an athletic trainer is certified or performed skills for which he or she has no training to perform;

(12) observed the administration of substandard care by another athletic trainer or other healthcare provider without documenting the event and notifying a supervisor or physician;

(13) by action or omission, created a substantial possibility that death or serious physical harm could result;

(14) falsified any documentation required by the Board;

(15) been convicted of or sanctioned for illegal or unauthorized practice;

(16) knowingly performed an act that in any way assists an unlicensed person to practice;

(17) intentionally violated or attempted to violate, directly or indirectly, or is assisting in or abetting the violation of or conspiring to violate the laws governing the practice of athletic trainers;

(18) violated the applicable code of ethics adopted by the Board or has been found by the Board to lack ethical or professional competence to practice;

(19) failed to cooperate with an investigation or other proceeding of the Board;

(20) failed to comply with an order, subpoena, or directive of the Board or Department;

(21) failed to prepare or maintain an adequate patient record of care provided, including, but not limited to, failure to maintain timely, legible, accurate, and complete medical records as required by regulation;

(22) engaged in behavior that exploits the athletic trainer-patient relationship in a sexual way. This behavior is nondiagnostic and nontherapeutic, may be written, verbal or physical and may include expressions of thoughts and feelings or gestures that are sexual or that reasonably may be construed by a patient as sexual. This behavior includes sexual contact with patient surrogates or key third parties;

(23) failed to appear before the Board after receiving a formal notice to appear;

(24) failed to report to the Board any adverse disciplinary action by another United States licensing jurisdiction, by any professional association, law enforcement agency, including arrest, or a court, including indictment, for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action as provided for in this section.

#### 81-505. Patient Care.

Athletic trainers are expected to adhere to and practice in accordance with the domains of practice set forth in the most updated Board of Certification for the Athletic Trainer's Practice Analysis, which identifies essential knowledge and skills for the athletic training profession.

#### 81-507. Code of Ethics and Professional Standards.

The Board adopts the Board of Certification for the Athletic Trainer Standards of Professional Practice.

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

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

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

The South Carolina Board of Medical Examiners proposes to promulgate regulations for athletic trainers following transfer of regulatory authority from DHEC to LLR following passage of Act 77 of 2023.

Document No. 5236

**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**OFFICE OF OCCUPATIONAL SAFETY AND HEALTH**  
CHAPTER 71

Statutory Authority: 1976 Code Section 41-15-210

71-1201. Reimbursement of Expenses.

71-1202. Hourly Compensation; Itemized Submissions.

#### **Synopsis:**

The South Carolina Department of Labor, Licensing and Regulation – Division of Occupational Safety and Health (SC OSHA) proposes to repeal R.71-1201 and 71-1202.

A Notice of Drafting was published in the *State Register* on July 28, 2023.

#### **Instructions:**

Print the regulation as shown below. All other items remain unchanged.

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### Text:

### SUBARTICLE 12

#### RULES FOR THE COMPENSATION OF MEMBERS OF THE OCCUPATIONAL HEALTH AND SAFETY REVIEW BOARD

71-1201. Repealed.

71-1202. Repealed.

### Fiscal Impact Statement:

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

### Statement of Rationale:

The South Carolina Department of Labor, Licensing and Regulation, Division of Labor, Office of Occupational Safety and Health, proposes to repeal R.71-1201 and 71-1202, as the law establishing the Occupational Health and Safety Review Board was repealed by 2008 Act No. 188, Section 3, effective January 1, 2009.

Document No. 5258

#### DEPARTMENT OF LABOR, LICENSING AND REGULATION OFFICE OF OCCUPATIONAL SAFETY AND HEALTH CHAPTER 71

Statutory Authority: 1976 Code Section 41-15-220

71-341. Electronic submission of Employer Identification Number (EIN) and injury and illness records to OSHA.

Appendix A to Subpart E of Subarticle 3.

Appendix B to Subpart E of Subarticle 3. (New)

### Synopsis:

The South Carolina Department of Labor, Licensing and Regulation – Division of Occupational Safety and Health (SC OSHA) proposes to amend sections of Chapter 71, Article 1, Subarticle 3, Occupational Injury and Illness Recording and Reporting Regulation. Specifically, the Department proposes to amend Subarticle 3 to clarify that certain employers must electronically submit injury and illness information to OSHA that employers are already required to keep under the recordkeeping regulation. Specifically, OSHA is amending its regulation to require establishments with 100 or more employees in certain designated industries to electronically submit information from their OSHA Forms 300 and 301 to OSHA once a year. Establishments with 20 to 249 employees in certain industries will continue to be required to electronically submit information from their OSHA Form 300A annual summary to OSHA once a year. All establishments with 250 or more employees that are required to keep records under OSHA's injury and illness regulation will also continue to be required to electronically submit information from their Form 300A to OSHA on an annual basis.

A Notice of Drafting was published in the *State Register* on August 25, 2023.

### Instructions:

Print the regulation as shown below. All other items remain unchanged.

**Text:**

71-341. Electronic submission of Employer Identification Number (EIN) and injury and illness records to OSHA.

## (a) Basic requirements

(1) Annual electronic submission of information from OSHA Form 300A Summary of Work-Related Injuries and Illnesses.

(i) If your establishment had 20-249 employees at any time during the previous calendar year, and your establishment is classified in an industry listed in appendix A to subpart E of this part, then you must electronically submit information from OSHA Form 300A Summary of Work-Related Injuries and Illnesses to OSHA or OSHA's designee. You must submit the information once a year, no later than the date listed in paragraph (c) of this section of the year after the calendar year covered by the form.

(ii) If your establishment had 250 or more employees at any time during the previous calendar year, and this part requires your establishment to keep records, then you must electronically submit information from OSHA Form 300A Summary of Work-Related Injuries and illnesses to OSHA and OSHA's designee. You must submit the information once a year, no later than the date listed in paragraph (c) of this section of the year after the calendar year covered by the form.

(2) Annual electronic submission of information from OSHA Form 300 Log of Work-Related Injuries and Illnesses and OSHA Form 301 Injury and Illness Incident Report by establishments with 100 or more employees in designated industries. If your establishment had 100 or more employees at any time during the previous calendar year, and your establishment is classified in an industry listed in appendix B to subpart E of this part, then you must electronically submit information from OSHA Forms 300 and 301 to OSHA or OSHA's designee. You must submit the information once a year, no later than the date listed in paragraph (c) of this section of the year after the calendar year covered by the forms.

(3) Electronic submission of part 1904 records upon notification. Upon notification, you must electronically submit the requested information from your part 1904 records to OSHA or OSHA's designee.

(4) Electronic submission of the Employer Identification Number (EIN). For each establishment that is subject to these reporting requirements, you must provide the EIN used by the establishment.

## (b) Implementation

(1) Does every employer have to routinely make an annual electronic submission of information from part 1904 injury and illness recordkeeping forms to OSHA? No, only three categories of employers must routinely submit information from these forms. The first category is establishments that had 20-249 employees at any time during the previous calendar year, and are classified in an industry listed in appendix A to this subpart; establishments in this category must submit the required information from Form 300A to OSHA once a year. The second category is establishments that had 250 or more employees at any time during the previous calendar year, and are required by this part to keep records; establishments in this category must submit the required information from Form 300A to OSHA once a year. The third category is establishments that had 100 or more employees at any time during the previous calendar year, and are classified in an industry listed in appendix B to this subpart; establishments in this category must also submit the required information from Forms 300 and 301 to OSHA once a year, in addition to the required information from Form 300A. Employers in these three categories must submit the required information by the date listed in paragraph (c) of this section of the year after the calendar year covered by the form (for example, 2024 for the 2023 form(s)). If your establishment is not in any of these three categories, then you must submit the information to OSHA only if OSHA notifies you to do so for an individual data collection.

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(2) Do part-time, seasonal, or temporary workers count as employees in the criteria for number of employees in paragraph (a) of this section? Yes, each individual employed in the establishment at any time during the calendar year counts as one employee, including full-time, part-time, seasonal, and temporary workers.

(3) How will OSHA notify me that I must submit information as part of an individual data collection under paragraph (a)(3) of this section? OSHA will notify you by mail if you will have to submit information as part of an individual data collection under paragraph (a)(3). OSHA will also announce individual data collections through publication in the Federal Register and the OSHA newsletter, and announcements on the OSHA website. If you are an employer who must routinely submit the information, then OSHA will not notify you about your routine submittal.

(4) When do I have to submit the information? If you are required to submit information under paragraph (a)(1) or (2) of this section, then you must submit the information once a year, by the date listed in paragraph (c) of this section of the year after the calendar year covered by the form (for example, 2019 for the 2018 form). If you are submitting information because OSHA notified you to submit information as part of an individual data collection under paragraph (a)(3) of this section, then you must submit the information as often as specified in the notification.

(5) How do I submit the information? You must submit the information electronically. OSHA will provide a secure website for the electronic submission of information. For individual data collections under paragraph (a)(3) of this section, OSHA will include the website's location in the notification for the data collection.

(6) Do I have to submit information if my establishment is partially exempt from keeping OSHA injury and illness records? If you are partially exempt from keeping injury and illness records under Sections 71-301 and/or 71-302, then you do not have to routinely submit information under paragraphs (a)(1) and (2) of this section. You will have to submit information under paragraph (a)(3) of this section if OSHA informs you in writing that it will collect injury and illness information from you. If you receive such a notification, then you must keep the injury and illness records required by this part and submit information as directed.

(7) Do I have to submit information if I am located in a State Plan State? Yes, the requirements apply to employers located in State Plan States.

(8) May an enterprise or corporate office electronically submit information for its establishment(s)? Yes, if your enterprise or corporate office had ownership of or control over one or more establishments required to submit information under paragraph (a) of this section, then the enterprise or corporate office may collect and electronically submit the information for the establishment(s).

(9) If I have to submit information under paragraph (a)(2) of this section, do I have to submit all of the information from the recordkeeping forms? No, you are required to submit all of the information from the forms *except* the following:

(i) Log of Work-Related Injuries and Illnesses (OSHA Form 300): Employee name (column B).

(ii) Injury and Illness Incident Report (OSHA Form 301): Employee name (field 1), employee address (field 2), name of physician or other health care professional (field 6), facility name and address if treatment was given away from the worksite (field 7).

(10) My company uses numbers or codes to identify our establishments. May I use numbers or codes as the establishment name in my submission? Yes, you may use numbers or codes as the establishment name. However, the submission must include a legal company name, either as part of the establishment name or separately as the company name.

(c) Reporting dates. Establishments that are required to submit under paragraph (a)(1) or (2) of this section must submit all of the required information by March 2 of the year after the calendar year covered by the form(s) (for example, by March 2, 2024, for the forms covering 2023).

(Cross Reference: 1904.41)

APPENDIX A TO SUBPART E OF SUBARTICLE 3—DESIGNATED INDUSTRIES FOR SECTION 71-341(a)(1)(i) ANNUAL ELECTRONIC SUBMISSION OF INFORMATION FROM OSHA FORM 300A SUMMARY OF WORK-RELATED INJURIES AND ILLNESSES BY ESTABLISHMENTS WITH 20–249 EMPLOYEES IN DESIGNATED INDUSTRIES

NAICS	Industry
11	Agriculture, Forestry, Fishing and Hunting.
22	Utilities.
23	Construction.
31-33	Manufacturing.
42	Wholesale Trade.
4413	Automotive Parts, Accessories, and Tire Stores.
4421	Furniture Stores.
4422	Home Furnishings Stores.
4441	Building Material and Supplies Dealers.
4442	Lawn and Garden Equipment and Supplies Stores.
4451	Grocery Stores.
4452	Specialty Food Stores.
4522	Department Stores.
4523	General Merchandise Stores, Including Warehouse Clubs and Supercenters.
4533	Used Merchandise Stores.
4542	Vending Machine Operators.
4543	Direct Selling Establishments.
4811	Scheduled Air Transportation.
4841	General Freight Trucking.
4842	Specialized Freight Trucking.
4851	Urban Transit Systems.
4852	Interurban and Rural Bus Transportation.
4853	Taxi and Limousine Service.
4854	School and Employee Bus Transportation.
4855	Charter Bus Industry.
4859	Other Transit and Ground Passenger Transportation.
4871	Scenic and Sightseeing Transportation, Land.
4881	Support Activities for Air Transportation.
4882	Support Activities for Rail Transportation
4883	Support Activities for Water Transportation.
4884	Support Activities for Road Transportation.
4889	Other Support Activities for Transportation.
4911	Postal Service.
4921	Couriers and Express Delivery Services.
4922	Local Messengers and Local Delivery.
4931	Warehousing and Storage.
5152	Cable and Other Subscription Programming.
5311	Lessors of Real Estate.
5321	Automotive Equipment Rental and Leasing.

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5322	Consumer Goods Rental.
5323	General Rental Centers.
5617	Services to Buildings and Dwellings.
5621	Waste Collection.
5622	Waste Treatment and Disposal.
5629	Remediation and Other Waste Management Services.
6219	Other Ambulatory Health Care Services.
6221	General Medical and Surgical Hospitals.
6222	Psychiatric and Substance Abuse Hospitals.
6223	Specialty (Except Psychiatric and Substance Abuse) Hospitals.
6231	Nursing Care Facilities (Skilled Nursing Facilities).
6232	Residential Intellectual and Developmental Disability, Mental Health, and Substance Abuse Facilities.
6233	Continuing Care Retirement Communities and Assisted Living Facilities for the Elderly.
6239	Other Residential Care Facilities.
6242	Community Food and Housing, and Emergency and Other Relief Service.
6243	Vocational Rehabilitation Services.
7111	Performing Arts Companies.
7112	Spectator Sports.
7121	Museums, Historical Sites, and Similar Institutions.
7131	Amusement Parks and Arcades.
7132	Gambling Industries.
7211	Traveler Accommodation.
7212	RV (Recreational Vehicle) Parks and Recreational Camps.
7223	Special Food Services.
8113	Commercial and Industrial Machinery and Equipment (Except Automotive and Electronic) Repair and Maintenance.
8123	Dry cleaning and Laundry Services.

**APPENDIX B TO SUBPART E OF SUBARTICLE 3—DESIGNATED INDUSTRIES FOR SECTION 71-341(a)(2) ANNUAL ELECTRONIC SUBMISSION OF INFORMATION FROM OSHA FORM 300 LOG OF WORK-RELATED INJURIES AND ILLNESSES AND OSHA FORM 301 INJURY AND ILLNESS INCIDENT REPORT BY ESTABLISHMENTS WITH 100 or MORE EMPLOYEES IN DESIGNATED INDUSTRIES**

<b>NAICS</b>	<b>Industry</b>
1111	Oilseed and Grain Farming.
1112	Vegetable and Melon Farming.
1113	Fruit and Tree Nut Farming.
1114	Greenhouse, Nursery, and Floriculture Production.
1119	Other Crop Farming.
1121	Cattle Ranching and Farming.
1122	Hog and Pig Farming.
1123	Poultry and Egg Production.
1129	Other Animal Production.
1133	Logging.
1141	Fishing.
1142	Hunting and Trapping.
1151	Support Activities for Crop Production.
1152	Support Activities for Animal Production.

1153	Support Activities for Forestry.
2213	Water, Sewage and Other Systems.
2381	Foundation, Structure, and Building Exterior Contractors
3111	Animal Food Manufacturing.
3113	Sugar and Confectionery Product Manufacturing.
3114	Fruit and Vegetable Preserving and Specialty Food Manufacturing.
3115	Dairy Product Manufacturing.
3116	Animal Slaughtering and Processing.
3117	Seafood Product Preparation and Packaging.
3118	Bakeries and Tortilla Manufacturing.
3119	Other Food Manufacturing.
3121	Beverage Manufacturing.
3161	Leather and Hide Tanning and Finishing.
3162	Footwear Manufacturing.
3211	Sawmills and Wood Preservation.
3212	Veneer, Plywood, and Engineered Wood Product Manufacturing.
3219	Other Wood Product Manufacturing.
3261	Plastics Product Manufacturing.
3262	Rubber Product Manufacturing.
3271	Clay Product and Refractory Manufacturing.
3272	Glass and Glass Product Manufacturing.
3273	Cement and Concrete Product Manufacturing.
3279	Other Nonmetallic Mineral Product Manufacturing.
3312	Steel Product Manufacturing from Purchased Steel.
3314	Nonferrous Metal (except Aluminum) Production and Processing.
3315	Foundries.
3321	Forging and Stamping.
3323	Architectural and Structural Metals Manufacturing.
3324	Boiler, Tank, and Shipping Container Manufacturing.
3325	Hardware Manufacturing.
3326	Spring and Wire Product Manufacturing.
3327	Machine Shops; Turned Product; and Screw, Nut, and Bolt Manufacturing.
3328	Coating, Engraving, Heat Treating, and Allied Activities.
3331	Agriculture, Construction, and Mining Machinery Manufacturing.
3335	Metalworking Machinery Manufacturing.
3361	Motor Vehicle Manufacturing.
3362	Motor Vehicle Body and Trailer Manufacturing.
3363	Motor Vehicle Parts Manufacturing.
3366	Ship and Boat Building.
3371	Household and Institutional Furniture and Kitchen Cabinet Manufacturing.
3372	Office Furniture (including Fixtures) Manufacturing.
3379	Other Furniture Related Product Manufacturing.
4231	Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers.
4233	Lumber and Other Construction Materials Merchant Wholesalers.
4235	Metal and Mineral (except Petroleum) Merchant Wholesalers.
4239	Miscellaneous Durable Goods Merchant Wholesalers.
4244	Grocery and Related Product Merchant Wholesalers.
4248	Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers.
4413	Automotive Parts, Accessories, and Tire Stores.
4422	Home Furnishings Stores.



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4441	Building Material and Supplies Dealers.
4442	Lawn and Garden Equipment and Supplies Stores.
4451	Grocery Stores.
4522	Department Stores.
4523	General Merchandise Stores, including Warehouse Clubs and Supercenters.
4533	Used Merchandise Stores.
4543	Direct Selling Establishments.
4811	Scheduled Air Transportation.
4841	General Freight Trucking.
4842	Specialized Freight Trucking.
4851	Urban Transit Systems.
4852	Interurban and Rural Bus Transportation.
4853	Taxi and Limousine Service.
4854	School and Employee Bus Transportation.
4859	Other Transit and Ground Passenger Transportation.
4871	Scenic and Sightseeing Transportation, Land.
4881	Support Activities for Air Transportation.
4883	Support Activities for Water Transportation.
4889	Other Support Activities for Transportation.
4911	Postal Service.
4921	Couriers and Express Delivery Services.
4931	Warehousing and Storage.
5322	Consumer Goods Rental.
5621	Waste Collection.
5622	Waste Treatment and Disposal.
6219	Other Ambulatory Health Care Services.
6221	General Medical and Surgical Hospitals.
6222	Psychiatric and Substance Abuse Hospitals.
6223	Specialty (except Psychiatric and Substance Abuse) Hospitals.
6231	Nursing Care Facilities (Skilled Nursing Facilities).
6232	Residential Intellectual and Developmental Disability, Mental Health, and Substance Abuse Facilities.
6233	Continuing Care Retirement Communities and Assisted Living Facilities for the Elderly.
6239	Other Residential Care Facilities.
6243	Vocational Rehabilitation Services.
7111	Performing Arts Companies.
7112	Spectator Sports.
7131	Amusement Parks and Arcades.
7211	Traveler Accommodation.
7212	RV (Recreational Vehicle) Parks and Recreational Camps.
7223	Special Food Services.

(Cross Reference: Appendix B to Subpart E of Part 1904)

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

The updated regulations will clarify that certain employers must electronically submit injury and illness information to OSHA that employers are already required to keep under the recordkeeping regulation. Specifically, OSHA is amending its regulation to require establishments with 100 or more employees in certain designated industries to electronically submit information from their OSHA Forms 300 and 301 to OSHA once a year. Establishments with 20 to 249 employees in certain industries will continue to be required to electronically submit information from their OSHA Form 300A annual summary to OSHA once a year. All establishments with 250 or more employees that are required to keep records under OSHA's injury and illness regulation will also continue to be required to electronically submit information from their Form 300A to OSHA on an annual basis. OSHA is also updating the NAICS codes used in Appendix B, which designates the industries required to submit Form 300 and Form 301 data. Additionally, establishments will be required to include their company name when making electronic submissions to OSHA.

Document No. 5257

**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**STATE BOARD OF PHARMACY**  
 CHAPTER 99

Statutory Authority: 1976 Code Sections 40-1-70, 40-43-60(D)(8), 40-43-83(I), and 40-43-86(B)(3)(c)

99-43. Facility Permit Classifications.

**Synopsis:**

The South Carolina Board of Pharmacy proposes to amend various sections of Chapter 99.

The Notice of Drafting was published in the *State Register* on July 28, 2023.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

99-43. Facility Permit Classifications.

A. Definitions

1. Unless otherwise indicated, "Board" shall mean the South Carolina Board of Pharmacy.
2. "Practice Act" shall mean the South Carolina Pharmacy Practice Act, as set forth in S.C. Code Section 40-43-10, et seq.
3. Unless otherwise indicated, for purposes of this regulation, all words shall be defined in accordance with the definitions set forth in the Practice Act.
4. For purposes of this regulation, the word "device" is limited to devices dispensed to a patient. "Device" shall not include devices used by practitioners in the normal course of treating patients, such as dental appliances, surgical equipment, etc.

B. Pharmacy Permits

1. Resident Pharmacy Permit

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a. A pharmacy located in South Carolina must obtain a Resident Pharmacy Permit issued by the Board to dispense legend drugs and/or devices to a patient or a patient's agent.

b. To obtain a Resident Pharmacy Permit, an applicant located in South Carolina must:

(1) submit a written application in the form prescribed by the Board along with the appropriate application fee; and

(2) undergo an inspection by the Board in which the applicant demonstrates that it is in compliance with the applicable provisions of the Practice Act.

### 2. Non-Resident Pharmacy Permit

a. A pharmacy located outside the geographic boundaries of South Carolina must obtain a Non-Resident Pharmacy Permit issued by the Board to dispense legend drugs and/or devices to a patient, or a patient's agent, located in South Carolina.

b. To obtain a Non-Resident Pharmacy Permit, an applicant must submit a written application in the form prescribed by the Board along with the appropriate application fee. The following information must be submitted with the application:

(1) A copy of the resident state pharmacy permit and DEA registration (if applicable) and a list of all additional state permits and controlled substance registrations (if applicable);

(2) A copy of all reports from operational inspections conducted within the last two years, as well as any current accreditations and/or certifications by any governmental or third-party entity;

(3) A copy of the policy and procedure for shipping refrigerated products;

(4) A copy of a dispensed label;

(5) Photographs of the exterior of the pharmacy building to include identifiable parts of adjacent buildings, the front end of the pharmacy, the consulting area, drop-off/pickup locations, and the compounding work area (if applicable); and

(6) An organizational chart setting forth the applicant's corporate structure, including its parent company, legal name and trade name. This chart must also identify any individual owners with an ownership interest equal to, or greater than, ten percent of the entity.

c. If an applicant for a Non-Resident Pharmacy Permit engages in the compounding of drugs, whether sterile or non-sterile, and regardless of whether the applicant intends to immediately ship compounded drugs into South Carolina at the time of the application, the applicant must submit the following:

(1) documentation of continuing education in the science and art of compounding for pharmacists and technicians involved in compounding. This must include six (6) hours of initial training and four (4) hours of annual training thereafter. The training does not have to be ACPE-approved;

(2) a diagram and photographs of all compounding areas;

(3) environmental control logs, to include (if applicable):

(a) refrigerator/freezer temperature monitoring;

(b) pressure differential monitoring; and

(c) temperature/humidity in compounding area monitoring;

(4) logs documenting cleaning of all areas used in the compounding process;

(5) formulas and completed logs for the applicant's top five compounded products with a copy of the actual prescription and label. Labels and beyond use dates must be submitted for each of the following types of sterile compounds produced (if applicable): minibag; large volume; TPN; syringe; and vial. Documentation must show beyond use dating and reasoning for the date assigned;

(6) compounding policies and procedures, specific to the applicant's facility, as applicable, for the following: quality control; sterile compounding technique; cleaning/maintenance of compounding area and equipment; and general compounding; and

(7) a copy of the report resulting from the last inspection of the applicant's hoods, buffer, clean and ante areas (including ISO classification, particle counts, and microbiology) by a qualified individual.

d. A pharmacist or other individual knowledgeable about all aspects of the applicant's operations must personally appear at a hearing before the Board, or it duly-authorized committee, to answer questions regarding the applicant's operations. This appearance shall be in lieu of an in-person inspection of the applicant's facility and is designed to provide the Board with information that would typically be obtained during an in-person inspection.

### 3. Resident Central Fill Pharmacy Permit

a. A Central Fill Pharmacy Permit is required for a pharmacy facility that, upon the request of an originating pharmacy, fills a prescription drug order and returns the filled prescription to the originating pharmacy for delivery to the patient or patient's agent. A central fill pharmacy that returns filled prescriptions to an originating pharmacy must not be required to obtain a wholesaler/distributor permit. A Central Fill Pharmacy Permit is required, in addition to a SC Pharmacy permit, if a pharmacy is engaging in central fill as well as dispensing.

b. To obtain a Central Fill Pharmacy Permit, an applicant must:

(1) submit a written application in the form prescribed by the Board along with the appropriate application fee which is equal to the amount of a Resident Pharmacy Permit application fee;

(2) present the name of the owner, permit holder, and pharmacist-in-charge of the pharmacy for service of process;

(3) present evidence of the applicant's ability to provide the Board a record of a prescription drug order dispensed by the applicant to a resident of this State not later than seventy-two hours after the time the Board requests the record;

(4) present an affidavit by the pharmacist-in-charge which states that the pharmacist has read and understands the laws and regulations relating to central fill pharmacy in this state.

### 4. Non-Resident Central Fill Pharmacy Permit

a. A Central Fill Pharmacy Permit is required for a pharmacy facility that, upon the request of an originating pharmacy, fills a prescription drug order and returns the filled prescription to the originating pharmacy for delivery to the patient or patient's agent. A central fill pharmacy that returns filled prescriptions

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to an originating pharmacy must not be required to obtain a wholesaler/distributor permit. A Central Fill Pharmacy Permit is required in addition to a SC Non-Resident Pharmacy Permit if a pharmacy is engaging in central fill as well as dispensing.

b. To obtain a Non-Resident Central Fill Pharmacy Permit, an applicant must:

(1) Submit a written application in the form prescribed by the Board along with the appropriate application fee which is equal to the amount of a Non-Resident Pharmacy Permit application fee;

(2) present evidence that the applicant holds a pharmacy license, registration, or permit issued by the state in which the pharmacy is located;

(3) present the name of the owner, permit holder, and pharmacist-in-charge of the pharmacy for service of process;

(4) present evidence of the applicant's ability to provide to the Board a record of a prescription drug order dispensed by the applicant to a resident of this State not later than seventy-two hours after the time the Board requests the record;

(5) present an affidavit by the pharmacist-in-charge which states that the pharmacist has read and understands the laws and regulations relating to central fill pharmacy in this state.

### C. Non-Resident Non-Dispensing Pharmacy Permit

1. To obtain a Non-Resident Non-Dispensing Pharmacy Permit, an applicant located outside of South Carolina must:

a. submit a written application in the form prescribed by the Board along with the appropriate application fee;

b. submit a copy of all reports resulting from operational inspections conducted within the last two years, as well as photographs of the exterior and working area of the facility; and

c. attend a hearing before the Board, or its duly-authorized committee, in which a pharmacist or other individual knowledgeable about all aspects of the applicant's operations must answer questions regarding the applicant's operations. This appearance shall be in lieu of an in-person inspection of the applicant's facility and is designed to provide the Board with information that would typically be obtained during an in-person inspection.

### D. Outsourcing Facility (503B) Permit

1. An Outsourcing Facility Permit is required for a facility engaged in the compounding of sterile drugs which has elected to register with the U.S. Food and Drug Administration as a 503B outsourcing facility. To obtain a permit as an outsourcing facility, a facility must hold, or concurrently apply for, a South Carolina Pharmacy or Manufacturer Permit, whether or not the facility is located in South Carolina.

a. "Outsourcing Facility" means a facility at one geographic location or address that:

(1) is engaged in the compounding of sterile drugs;

(2) is registered as an Outsourcing Facility with the FDA; and

(3) complies with all of the requirements of Section 503B of the Federal FD&C Act.

2. To obtain a Resident Outsourcing Facility Permit, an applicant located in South Carolina must:
  - a. submit a written application in the form prescribed by the Board along with the appropriate application fee;
  - b. undergo an inspection by the Board in which the applicant demonstrates that it is in compliance with the applicable provisions of the Practice Act;
3. To obtain a Non-Resident Outsourcing Facility Permit, an applicant located outside of South Carolina must:
  - a. submit a written application in the form prescribed by the Board along with the appropriate application fee. The following information must be submitted with the application:
    - (1) a copy of the resident state pharmacy permit and DEA registration (if applicable) and a list of all additional state permits and controlled substance registrations (if applicable);
    - (2) a copy of the facility's most recent FDA inspection report, including any 483s issued and the applicant's response thereto;
    - (3) a copy of all reports from operational inspections conducted within the last two years; and
    - (4) a copy of the policy and procedures for shipping refrigerated products and monitoring the temperature and humidity; and
  - b. attend a hearing before the Board or its duty-authorized committee in which a pharmacist or other individual knowledgeable about all aspects of the applicant's operations must answer questions regarding the applicant's operations. This appearance shall be in lieu of an in-person inspection of the applicant's facility and is designed to provide the Board with information that would typically be obtained during an in-person inspection.

E. Medical Gas/Legend Device Permit

1. A Medical Gas/Legend Device Permit is required for a facility to dispense medical gases and/or legend devices to a patient or a patient's agent on the order of a licensed practitioner.
2. To obtain a Resident Medical Gas/Legend Device Permit, an applicant located in South Carolina must:
  - a. submit a written application in the form prescribed by the Board along with the appropriate application fee; and
  - b. undergo an inspection by the Board in which the applicant demonstrates that it is in compliance with the applicable provisions of the Practice Act.
3. To obtain a Non-Resident Medical Gas/Legend Device Permit, an applicant located outside of South Carolina must submit:
  - a. a written application in the form prescribed by the Board along with the appropriate application fee;
  - b. a copy of the applicant's resident state pharmacy permit and a list of all additional state permits (if applicable); and
  - c. a copy of all reports from operational inspections conducted within the last two years (if applicable).

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### F. Non-Dispensing Drug Outlet

1. A Non-Dispensing Drug Outlet Permit is required for a facility to store and/or administer legend drugs and/or devices. Facilities requiring a Non-Dispensing Drug Outlet Permit include, but are not limited to, public or private health clinics, infirmaries, correctional institutions, industrial health clinics, and emergency medical service providers. A Non-Dispensing Drug Outlet Permit requires a consultant pharmacist, unless the facility is engaged in manufacturing, wholesaling or distributing.

2. To obtain a Non-Dispensing Drug Outlet Permit, an applicant must:

a. submit a written application in the form prescribed by the Board along with the appropriate application fee;

b. undergo an inspection by the Board in which the applicant demonstrates that it is in compliance with the applicable provisions of the Practice Act.

### G. Wholesale Distributor Permit

1. A Wholesale Distributor Permit is required for a facility to engage in the wholesale distribution of prescription drugs and/or devices to permitted facilities and licensed practitioners. Entities requiring a Wholesale Distributor Permit include, but are not limited to: repackagers; own-label distributors; private-label distributors; jobbers; brokers; warehouses including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies that conduct wholesale distributions. A Wholesale Distributor Permit is required for virtual wholesale distributors defined as a business entity that arranges for the distribution of a drug or device, with or without taking actual possession of the drug or device, and contracts with others for the distribution, purchase and sale.

2. To obtain a Resident Wholesale Distributor Permit, an applicant located in South Carolina must:

a. submit a written application in the form prescribed by the Board along with the appropriate application fee;

b. undergo an inspection by the Board in which the applicant demonstrates that it is in compliance with the applicable provision of the Practice Act and any federal requirements, including but not limited to the Drug Supply Chain Security Act (DSCSA).

3. To obtain a Non-Resident Wholesale Distributor Permit, an applicant located outside of South Carolina must:

a. submit a written application in the form prescribed by the Board along with the appropriate application fee. The following information must be submitted with the application:

(1) a copy of the resident state permit and DEA registration (if applicable) and a list of all additional state permits and controlled substance registrations (if applicable);

(2) a copy of the facility's most recent FDA inspection report, including any 483s issued and applicant's response(s) thereto;

(3) a copy of all reports from operational inspections conducted within the last two years;

(4) a copy of the policy and procedures for shipping refrigerated products and monitoring the temperature and humidity;

(5) a copy of the NABP’s Drug Distributor Accreditation (if applicable) or a notarized statement certifying that the applicant meets the standards necessary to obtain this accreditation; and

(6) produce to the Board policies and procedures establishing that the facility meets all current Drug Supply Chain Security Act (DSCSA) standards.

b. attend a hearing before the Board or its duly-authorized committee in which an individual knowledgeable about all aspects of the applicant’s operations must respond to operational questions. This appearance shall be in lieu of an in-person inspection of the applicant’s facility and is designed to provide the Board with information that would typically be obtained during an in-person inspection.

H. Manufacturer/Repackager

1. A Manufacturer/Repackager Permit is required for a facility to engage in the manufacturing of prescription drugs or devices, including any packaging or repackaging of the drugs and/or devices, and/or labeling or re-labeling of containers. A Manufacturer/Repackager Permit is required for Virtual Manufacturers or any company that sells their own prescription drug products and/or medical devices but outsources the manufacturing and distribution operations.

2. To obtain a Resident Manufacturer/Repackager Permit, an applicant located in South Carolina must:

a. submit a written application in the form prescribed by the Board along with the appropriate application fee; and

b. undergo an inspection by the Board in which the applicant demonstrates that it is in compliance with the applicable provisions of the Practice Act.

3. To obtain a Non-Resident Manufacturer/Repackager, an applicant must:

a. submit a written application in the form prescribed by the Board along with the appropriate application fee. The following information must be submitted with the application:

(1) a copy of the resident state pharmacy permit and DEA registration (if applicable) and a list of all additional state permits and controlled substance registrations (if applicable);

(2) a copy of the facility’s most recent FDA inspection report, including any 483s issued and the applicant’s response(s) thereto;

(3) a copy of all reports from operational inspections conducted within the last two years;

(4) a copy of the policy and procedures for shipping refrigerated products and monitoring temperature and humidity;

(5) produce to the Board policies and procedures establishing that the facility meets all current Drug Supply Chain Security Act (DSCSA) standards;

b. attend a hearing before the Board or its duly-authorized committee in which a pharmacist or other individual knowledgeable about all aspects of the applicant’s operations must answer questions regarding the applicant’s operations. This appearance shall be in lieu of an in-person inspection of the applicant’s facility and is designed to provide the Board with information that would typically be obtained during an in-person inspection.

I. Federally Qualified Health Center (“FQHC”) Drug Outlet Permit



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1. A Federally Qualified Health Center (“FQHC”) Drug Outlet Permit is required for an FQHC delivery site to store, administer, and/or distribute patient-specific, labeled drugs and/or devices received from a permitted FQHC pharmacy or contracted pharmacy.

2. A FQHC Drug Outlet Permit is required for an FQHC delivery site to store and/or administer any legend drug or device.

3. To obtain a Federally Qualified Health Center (“FQHC”) Drug Outlet permit, an applicant must:

a. submit a written application in the form prescribed by the Board along with the appropriate application fee; and

b. undergo an inspection by the Board in which the applicant demonstrates that it is in compliance with the applicable provisions of the Practice Act.

### J. Third-Party Logistics (“3PL”) Provider

1. A Third-Party Logistics Provider Permit is required for a facility to provide or otherwise coordinate warehousing, or other logistics services, of drugs and/or devices in interstate commerce on behalf of a manufacturer, wholesale distributor or dispenser of drugs and/or devices. A 3PL Provider does not take ownership of the drugs and/or devices and is not responsible for the sale and/or distribution of the drugs and/or devices to permitted facilities and/or licensed practitioners.

a. “Third-Party Logistics Provider” means an entity that:

(1) provides or coordinates warehousing, Distribution or other services on behalf of a Manufacturer, but does not take title to the Prescription Drug or have general responsibility to direct the Prescription Drug’s sale or disposition; and

(2) is licensed as a Third-Party Logistics Provider.

2. To obtain a Resident Third-Party Logistics Provider permit, an applicant located in South Carolina must:

a. submit a written application in the form prescribed by the Board along with the appropriate application fee;

b. undergo an inspection by the Board in which the applicant demonstrates that it is in compliance with the applicable provisions of the Practice Act.

3. To obtain a Non-Resident Third-Party Logistics Provider permit, an applicant must:

a. submit a written application in the form prescribed by the Board along with the appropriate application fee. The following information must be submitted with the application:

(1) a copy of the resident state permit and DEA registration (if applicable) and a list of all additional state permits and controlled substance registrations (if applicable) and

(2) a copy of all reports from operational inspections conducted within the last two years; and

b. attend a hearing before the Board or its duly-authorized committee in which a pharmacist or other individual knowledgeable about all aspects of the applicant’s operations must answer questions regarding the applicant’s operations. This appearance shall be in lieu of an in-person inspection of the applicant’s facility and

is designed to provide the Board with information that would typically be obtained during an in-person inspection.

**K. Hospital-Owned Health System – Non-Dispensing Drug Outlet Permit**

1. A Hospital-Owned Health System is defined as facilities within a health system where the sites are owned by a hospital and associated with a Hospital Pharmacy Permit in good standing with the SC Board of Pharmacy.

2. A Hospital-Owned Health System is not required to obtain separate Non-Dispensing Drug Outlet Permits for additional facilities within the health system which store and/or administer legend drugs and/or devices provided it complies with all the requirements set forth in this subsection.

3. The Pharmacist-in-Charge of the hospital pharmacy permit will be responsible for all facilities associated with the hospital pharmacy permit.

4. To obtain a Non-Dispensing Drug Outlet Permit containing multiple facilities with a Hospital-Owned Health System, an applicant must:

a. Submit a written application on the form prescribed by the Board along with the appropriate application fee;

b. Provide a list of each facility covered by the Hospital Non-Dispensing Drug Outlet Permit;

c. Undergo an inspection by the Board in which the applicant demonstrates compliance with the applicable provisions of the Act.

5. Prior to the addition of any facilities to the permit, the SC Board of Pharmacy must be notified in writing in a manner prescribed by the Board.

6. Upon inspection of the permitted site, the Pharmacist-in-Charge must present monthly inspections from all facilities covered by the permit.

L. All non-resident facilities required by statute or regulation to be permitted must be operational and must have undergone a successful operational inspection before a permit may be issued by the Board.

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

The updated regulations will provide clarification and guidance regarding permitting of virtual wholesalers and virtual manufacturers and other new pharmacy business models; provide clarification and guidance on remote work; provide clarification and guidance regarding collaborative practice in pharmacy; provide clarification of reporting requirements mandated by state or federal laws including the Drug Supply Chain Security Act (DSCSA) and provide clarification and guidance regarding compounding that reflect changes to USP Compounding Standards and emerging business models.

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Document No. 5235  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**STATE BOARD OF PHYSICAL THERAPY EXAMINERS**  
CHAPTER 101  
Statutory Authority: 1976 Code Section 40-45-60

101-01. Definitions.  
101-07. Continuing Education and Competency.  
101-08. Fees.  
101-09. Supervision Guidelines.  
101-11. Referral.  
101-15. Sexual Misconduct.

### **Synopsis:**

The South Carolina Board of Physical Therapy Examiners proposes to amend Chapter 101 of the Code of Regulations, including but not limited to sections R.101-07 regarding continuing education and R.101-11 regarding referral. Scrivener's errors and other matters will be corrected following the Board's review of its regulations, pursuant to S.C. Code Section 1-23-120.

The Notice of Drafting was published in the *State Register* on April 28, 2023.

### **Instructions:**

Print the regulation as shown below. All other items remain unchanged.

### **Text:**

#### ARTICLE 1 DEFINITIONS

101-01. Definitions.

Definitions found in Section 40-45-20 apply to this chapter.

(1) "Continuing education" means an organized educational program designed to expand a licensee's knowledge base beyond the basic entry level educational requirements for physical therapists and physical therapist assistants. Course content must relate to patient care in physical therapy whether the subject is research, treatment, documentation, education, or management.

(2) "CEU" or "continuing education unit" means ten (10) contact hours of participation in Certified Activities and/or participation in Approved Activities as set forth herein.

(3) "Contact hour" means a minimum of fifty (50) minutes of instruction or participation in Certified Activities or Approved Activities.

(4) "Continuing competency" is the ongoing ability of a PT or PTA to learn, integrate, and apply the knowledge, skill and judgment to practice as a PT and/or PTA according to generally accepted standards and professional ethical standards as defined by the Board.

(5) "Certified Activities" are Board-approved activities for which a licensee may receive CEU credit. Certified Activities are measured in contact hours, with one (1) contact hour equaling one-tenth (.1) of an hour of CEU credit. A certified activity must be subject to an evaluative process to determine if the activity meets a minimal threshold of required criteria and how well that activity meets that criteria.

(6) "Approved Activities" are Board-approved activities for which a licensee may receive CEU credit, but which are not subject to a formal evaluative process. Approved Activities are assigned a set CEU value measured in contact hours based on the criteria established herein, with one (1) contact hour equaling one-tenth (.1) of an hour of CEU credit.

## 101-07. Continuing Education and Competency.

An individual licensed as a PT or PTA is responsible for optimum service to the public and is accountable for maintaining evidence of high levels of skill and knowledge. Evaluation and assessment of current competence is critical for PTs and PTAs. The results of an evaluation or assessment should be used by the licensee to then select appropriate developmental activities.

(1) A licensed PT or PTA shall earn three (3.0) CEUs per biennium period (30 hours) and at least fifteen (15) contact hours of the thirty hours must be obtained through the completion of Certified Activities. PTs and PTAs licensed in South Carolina are not subject to this requirement for the first biennium renewal period in which they are initially licensed.

(2) A PT or PTA must complete three (3) contact hours of study in ethics, professionalism, and/or South Carolina jurisprudence per biennium as part of his/her CEU requirements. This requirement shall be obtained by participation in a Certified Activity and will count towards the licensee's required Certified Activity hours.

(3) At least fifteen (15) of the required thirty (30) contact hours shall be from Certified Activities. Certified Activities include:

(a) attendance at conferences and completion of continuing competency activities that meet the Standards of Continuing Competence (SCC) as set forth by the FSBPT. Credit for this item is applied as awarded by the provider, and a certificate of completion is required as evidence of compliance.

(b) attendance at conferences and completion of continuing competency activities provided by the American Physical Therapy Association (APTA), South Carolina Chapter of the American Physical Therapy Association (APTA-SC), other chapters and sections of the APTA, as well as other state boards of physical therapy. Credit for this item is applied as awarded by the provider, and a certificate of completion is required as evidence of compliance.

(c) completion of educational programs where CE credit is given and approved by accredited universities. Credit for this item is applied as awarded by the provider, and a certificate of completion is required as evidence of compliance.

(d) attendance at educational programs where CE credit is given and approved by APTA-SC. Credit for this item is applied as awarded by the provider, and a certificate of completion is required as evidence of compliance.

(e) completion of an APTA credentialed fellowship or residency. Licensees who are enrolled in a fellowship or residency will be considered as meeting the educational and competency requirements for the entire licensure biennium in which the certification or renewal is received. A letter from the director of the residency or fellowship program is required as evidence of compliance.

(f) certification or recertification of clinical specialization by the American Board of Physical Therapy Specialties (ABPTS) or PTA advanced proficiency certification. A licensee who completes this certification or recertification will be considered as having met the CEU requirement for the entire licensure biennium in which the certification or recertification is awarded.

(g) completion of academic course work germane to the practice of physical therapy and conducted or sponsored by accredited institutions of higher education. Courses must be on the graduate level for PTs. Undergraduate courses are acceptable for PTAs. Ten (10) contact hours may be awarded for each credit hour awarded by the accredited institution of higher education. A transcript from the institution which indicates a passing grade in the course is required as evidence of compliance.

(h) completion of any appropriate physical therapy continued competency tools, including examinations and/or self-assessments, developed by the FSBPT and/or APTA. Credit for CEUs is applied as awarded. If no contact hours are awarded, a licensee may receive five (5) contact hours. A certification of completion is required as evidence of compliance.

(i) completion of courses relating to physical therapy approved by the American Medical Association (AMA). A certification of completion is required as evidence of compliance.

(4) A licensee may obtain up to fifteen (15) hours of CEU credit through Approved Activities per biennium. Approved Activities include:

(a) completion of continuing education courses and attendance at conferences that do not meet the requirements for Certified Activities. A licensee who completes such a course or attends such a conference will receive credit for: ten (10) contact hours for each course/conference that totals thirty-two (32) hours or longer; five (5) contact hours for each course/conference that totals a minimum of eight (8) but fewer than thirty-two

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(32) hours; and two (2) contact hours for each course/conference that totals fewer than eight (8) hours. A certification of completion is required as evidence of compliance.

(b) clinical instruction. Clinical instructors shall receive one (1) contact hour for every one hundred and sixty (160) hours of clinical internship, limited to a maximum of six (6) contact hours per instructor per biennium. Students must be enrolled in CAPTE accredited or eligible DPT or PTA programs. Clinical instructors must be credentialed by APTA to receive clinical continuing education credits. Verification of the clinical supervision agreement with the student's educational program and a log reporting supervision hours is required as evidence of compliance. A certificate of completion from the educational program may also be used as evidence of compliance.

(c) attendance at in-service education programs pertaining to safety, governmental regulation, clinical concepts, or CPR. One (1) contact hour per in-service program may be awarded for a maximum of three (3) contact hours per biennium. Learning objectives, program schedule, and verification of attendance from an employer are required as evidence of compliance.

(d) teaching a course on a subject germane to the practice of physical therapy at an accredited institution of higher education when that teaching is an adjunct responsibility and not the license's primary employment. CEU credit is based on didactic classroom/lab teaching time and may not exceed ten (10) contact hours per biennium. A letter from the institution documenting the licensee's completion of this activity is required as evidence of compliance.

(e) performing volunteer work. A licensee who renders physical therapy services voluntarily and without compensation or the expectation or promise of compensation and seeks no reimbursement from charitable and governmental sources may receive one (1) contact hour of continuing education for each hour of volunteer medical services rendered, up to a maximum of seven and one-half (7.5) contact hours per biennium. A letter from the organization/individual for whom the licensee is providing volunteer services documenting the licensee's completion of this activity is required as evidence of compliance.

(f) presentations made before physical therapists or other health care professionals and directly related to the profession of physical therapy. Three (3) contact hours per presentation/topic may be awarded. Documentation of the learning objectives presented and a presentation brochure or flyer are required as evidence of compliance. A licensee may obtain no more than six (6) hours of credit for this activity per biennium.

(g) self-study germane to the practice of physical therapy, which may be directed by a correspondence course, video, internet or satellite program by a provider not outlined in the Certified Activities listed above. One (1) contact hour per study topic may be awarded. Documentation of the study objectives, activities, and time spent to meet objectives, as well as reflection on learning achieved, is required as evidence of compliance. A licensee may obtain no more than two (2) hours of credit for this activity per biennium.

(h) conducting peer-reviewed research germane to the practice of physical therapy performed by the licensee. Credit for ten (10) contact hours may be awarded for principal and co-principal investigators in research projects. The title of the research project and copy of the abstract, as well as the funding agency and grant period, if applicable, are required as evidence of compliance.

(i) writing a professional publication. Credit for eight (8) contact hours may be awarded for each peer-reviewed publication written by a licensee. Credit for four (4) contact hours may be awarded for each non-peer-reviewed publication. A copy of the article, book chapter, or other work product is required as evidence of compliance. A licensee may obtain no more than eight (8) hours of credit for this activity per biennium.

(j) participation in a formal mentorship (as mentor or protégé). Credit for five (5) contact hours may be awarded per biennium for a licensee's participation in a formal mentorship program. Documentation of the objectives and action plans, as well as documentation of the activities completed are required as evidence of compliance.

(5) Notwithstanding any provision in this Chapter to the contrary, no contact hours or CEUs may be awarded for a licensee's:

- (a) attendance at staff meetings, or involvement in presentations or publications directed at lay groups;
- (b) participation in non-educational entertainment or recreational meetings or activities;
- (c) participation or attendance at case conferences, grand rounds, informal presentations, etc.;
- (d) participation in self-directed studies other than those specifically allowed for herein;
- (e) routine teaching, research, or orientation duties as part of a job requirement;
- (f) CEUs or contact hours carried over from one licensure period to another; or

- (g) attendance at exhibits or poster presentations.
- (6) Reporting Requirements:
  - (a) reports shall be submitted in a manner prescribed by the Board. By signing the biennial report of continuing education, the licensee signifies that the report is true and accurate.
  - (b) Licensees shall retain original documentation of all Certified Activities and Approved Activities completed as required herein for no less than three (3) years from the beginning date of the licensure period.
- (7) Audit of continuing competency:
  - (a) each licensee shall be responsible for maintaining sufficient records in a format determined by the Board; and
  - (b) these records shall be subject to a random audit by the Board to assure compliance with this section; and
  - (c) the Board may audit a percentage of the continuing education reports.
- (8) In the event of denial, in whole or part, of credit for purposes of meeting the requirements of this Section, the licensee shall have the right to request a hearing in accordance with the Administrative Procedures Act.

ARTICLE 4  
FEES

101-08. Fees.

- (A) The Board may charge fees as shown in South Carolina Code of Regulations Chapter 10-30 and on the South Carolina Board of Physical Therapy Examiners website at <http://llr.sc.gov/POL/PhysicalTherapy/>.
- (B) A check which is presented to the Board as payment for a fee which the Board is permitted to charge under this chapter and which is returned unpaid may be cause for denial of a license or for imposing a sanction authorized under this chapter or Section 40-1-50(G).
- (C) The Board may direct applicants to pay an examination fee directly to a third party who has contracted to administer the examination.
- (D) Fees are nonrefundable and may be prorated in order to comply with a biennial schedule.

ARTICLE 5  
SUPERVISION GUIDELINES

101-09. Supervision Guidelines.

It is recommended that a physical therapist should not concurrently supervise more than three (3) full-time equivalent physical therapist assistant positions. The Board, in its discretion, may permit supervision of more than three (3) full-time equivalent physical therapist assistant positions, for a short, defined period of time, if a situation arises in a physical therapy treatment setting that makes compliance impossible. Relief from this supervision ratio is allowable if there is no immediate risk to public health or safety as determined by the Board.

ARTICLE 6  
STANDARDS OF PRACTICE

101-10. Use of Aides in the Practice of Physical Therapy.

Aides are non-licensed personnel who assist the physical therapist or physical therapist assistant but whose duties do not require an understanding of physical therapy or formal training in anatomical, biological, or physical sciences. Education or training of the physical therapy aide shall not exceed the scope of activities described in Section 40-45-290. Aides are not to be assigned duties that may be performed only by a licensed physical therapist or licensed physical therapist assistant. When aides are utilized in the treatment of patients, the following guidelines shall apply:

- (1) when applying hydrotherapy, heat or cold treatments, a physical therapist or physical therapist assistant may allow an aide to assist patients in dressing and undressing, drape and position the patient in preparation for treatment, clean and fill the whirlpool, attend the patient during treatment, wrap the patient's extremities after a paraffin bath, and place the hot packs on the patient; and

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(2) when applying electrotherapy, a physical therapist or physical therapist assistant may allow an aide to prepare the area to be treated and to prepare equipment and apply electrodes as specified by the physical therapist and physical therapist assistant; and

(3) when applying traction, a physical therapist or physical therapist assistant may allow an aide to prepare the patient for treatment, position the patient, and apply the cervical or pelvic harness; and

(4) when applying therapeutic exercise, a physical therapist or physical therapist assistant may allow an aide to set up the patient's exercise equipment, prepare the equipment, and give the patient established amount of weights for resistive exercise; and

(5) when applying gait training, a physical therapist or physical therapist assistant may allow an aide to prepare equipment such as crutches, walkers, parallel bars, and braces and to assist the physical therapist or physical therapist assistant in gait training of the patient.

101-11. Referral. For purposes of S.C. Code Section 40-45-110(4), "referral" is defined as a writing communicating to the patient the importance of seeing the licensed medical doctor or dentist, a copy of which is placed in the patient's treatment records.

### ARTICLE 7 CODE OF ETHICS

101-13. Code of Ethics for Physical Therapists.

Principle 1: Physical Therapists respect the rights and dignity of all individuals.

Principle 2: Physical Therapists comply with the laws and regulations governing the practice of physical therapy.

Principle 3: Physical Therapists accept responsibility for the exercise of sound judgment.

Principle 4: Physical Therapists maintain and promote high standards for physical therapy practice, education, and research.

Principle 5: Physical Therapists seek remuneration for their services that is deserved and responsible.

Principle 6: Physical Therapists provide accurate information to the consumer about the profession and about those services they provide.

Principle 7: Physical Therapists accept the responsibility to protect the public and the profession from unethical, incompetent, or illegal acts.

Principle 8: Physical Therapists participate in efforts to address the health needs of the public.

101-14. Code of Ethics for Physical Therapist Assistants.

Standard 1: Physical Therapist Assistants provide services under the supervision of a physical therapist.

Standard 2: Physical Therapist Assistants respect the rights and dignity of all individuals.

Standard 3: Physical Therapist Assistants maintain and promote high standards in the provision of services, giving the welfare of patients their highest regard.

Standard 4: Physical Therapist Assistants provide services within the limits of the law.

Standard 5: Physical Therapist Assistants make those judgments that are commensurate with their qualifications as physical therapist assistants.

Standard 6: Physical Therapist Assistants accept the responsibility to protect the public and the profession from unethical, incompetent, or illegal acts.

101-15. Sexual Misconduct.

Engaging in sexual misconduct constitutes grounds for disciplinary action. Sexual misconduct for the purposes of this section includes, but is not limited to, the following:

(1) Engaging in or soliciting sexual relationships, whether consensual or non-consensual, while a physical therapist or physical therapist assistant/patient relationship exists.

(2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with patients or clients.

(3) Intentionally viewing a completely or partially disrobed patient in the course of treatment if the viewing is not related to patient evaluation or treatment under current practice standards.

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

The updated regulation will amend Chapter 101 of the Code of Regulations, including but not limited to sections R.101-07 regarding continuing education and R.101-11 regarding referral. Scrivener's errors and other matters will be corrected following the Board's review of its regulations, pursuant to S.C. Code Section 1-23-120.

Document No. 5247  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BOARD OF PODIATRY EXAMINERS**  
 CHAPTER 134

Statutory Authority: 1976 Code Sections 40-1-70, 40-51-40, 40-51-67, 40-51-70, and 40-51-210

- 134-10. License to Practice Podiatry.
- 134-20. Fees to Practice Podiatry.
- 134-30. Requirements for Written Examinations.
- 134-40. Fees for Examinations.
- 134-50. Procedure for Re-examination and Review of Examination.
- 134-60. Podiatrist Supervision and Administration of Hyperbaric Oxygen Therapy. (New)

**Synopsis:**

The South Carolina Board of Podiatry Examiners proposes repealing R.134-40 and 134-50, repealing and amending sections of 134-30, amending R.134-10, and adding a regulation regarding hyperbaric oxygen treatments. The Board may amend or repeal additional regulations in accordance with its regulatory review conducted pursuant to S.C. Code Section 1-23-120(J).

A Notice of Drafting was published in the *State Register* on June 23, 2023.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

## 134-10. License to Practice Podiatry.

No applicant shall be examined by the Board to practice podiatry in this State unless the applicant shall:

- (1) Present to the Board's satisfaction, evidence that he:
  - (a) has received four years of high school training;
  - (b) has completed at least three years of pre-podiatry training at a recognized college;
  - (c) has received a diploma or certificate of graduation from a recognized college of podiatric medicine, which has been accredited by the Council on Podiatric Medical Education.
- (2) The Board may accept, in its discretion, as such satisfactory evidence of graduation, any of the following:
  - (a) A notarized copy of the applicant's diploma or other certificate of graduation from an approved podiatry college.
  - (b) A sworn statement from the dean of the podiatry college stating that the applicant has graduated from such podiatry college.



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(3) Complete an application to practice podiatry in South Carolina on the form furnished by the Board at least ninety (90) days prior to the date of the examination. In making the application, the applicant authorizes the Board to verify the information contained in the application, or to seek such further information pertinent to the applicant's qualifications, as the Board may deem proper. The application shall include:

- (a) A certified copy of the applicant's college records showing successful completion of at least three (3) years of podiatry training at a recognized college, including grades and credits;
- (b) A certified copy of the applicant's diploma from an accredited college of podiatric medicine;
- (c) A certified copy of the applicant's birth certificate;
- (d) A notarized recent photograph of the applicant;
- (e) The applicant's oath, completed and notarized;
- (f) Three (3) letters of reference from podiatrists known by the applicant on a professional level;
- (g) The results of Parts I, II and III of the National Board of Podiatry Examination;
- (h) The applicant's social security number;
- (i) A listing of all states in which the applicant is licensed and how each license was obtained (i.e. by examination, by reciprocity, by "other – please explain"); and
- (j) A statement as to whether or not disciplinary action has been brought against the applicant's license within the last five (5) years. If yes, an explanation of why.

(4) Pay to the Board a fee as prescribed by the Board.

(5) The Board shall require each applicant to successfully complete an examination before such applicant is licensed.

### 134-20. Fees to Practice Podiatry.

The Board may charge fees as shown in South Carolina Code of Regulations Chapter 10-32 and on the South Carolina Board of Podiatry Examiners website at <https://llr.sc.gov/pod/>.

134-30. Repealed.

134-40. Repealed.

134-50. Repealed.

### 134-60. Podiatrist Supervision and Administration of Hyperbaric Oxygen Therapy.

(1) A licensed podiatrist who meets and complies with all requirements of this section may supervise and/or administer hyperbaric oxygen therapy to his or her patient for the purpose of treating conditions of the foot or ankle, provided such conditions are within the scope of the practice of podiatry, as defined in Section 40-51-20.

(2) Hyperbaric oxygen therapy or "HBOT" means a treatment in which a patient intermittently breathes 100 percent pure oxygen while inside a treatment chamber at two to three times the atmospheric pressure at sea level.

(3) A licensed podiatrist may supervise and/or administer HBOT treatment for conditions of the foot or ankle, provided such conditions are within the scope of the practice of podiatry as defined in Section 40-51-20, and provided that he or she has:

(a) Received educational training in the administration of HBOT. Specifically, podiatrists supervising hyperbaric oxygen therapy should be certified in Undersea and Hyperbaric Medicine by the American Board of Emergency Medicine (ABEM) or the American Board of Preventive Medicine (ABPM); or must have completed additional training in hyperbaric medicine that includes at least 40-hour training and Advanced Cardiac Life Support (ACLS) training as approved by the Board; and

(b) Been credentialed to perform the supervision and administration of HBOT by a hospital or other medical facility.

(4) A licensed podiatrist shall supervise and administer HBOT only:

(a) Within the confines of a hospital or medical facility, where a physician with knowledge of hyperbaric medicine is readily available to manage and assist with any complications that may occur; and

(b) When the patient has been cleared to receive HBOT by a licensed physician prior to the initiation of treatment. The podiatrist supervising and/or administering HBOT shall maintain documentation of physician clearance to receive HBOT in the patient's medical record.

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

The updated regulations will repeal R.134-40 and 134-50, repeal and amend sections of 134-30, amend R.134-10, and add a regulation regarding hyperbaric oxygen treatments.

Document No. 5256  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**STATE BOARD OF EXAMINERS IN PSYCHOLOGY**  
 CHAPTER 100  
 Statutory Authority: 1976 Code Sections 40-1-70 and 40-55-40(d)

100-1. Application for License to Practice Psychology.

100-2. Examinations.

100-4. Code of Ethics.

100-6. Advertising.

100-8. Guidelines for the Employment and Supervision of Unlicensed Persons Providing Psychological Services.

100-9. Organization of the Board.

100-10. Continuing Education Credits.

**Synopsis:**

The Board of Examiners in Psychology proposes to add to, amend, and/or repeal its regulations in Chapter 100 of the Code of Regulations.

A Notice of Drafting was published in the State Register on June 23, 2023.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

100-1. Application for License to Practice Psychology.

A. A candidate for licensure shall furnish the Board with satisfactory evidence that he or she:

(1) has had four years of combined academic training in psychology and qualifying experience including a doctoral degree in psychology from an educational institution which is accredited by a recognized regional accrediting agency of colleges and universities, and whose program is accredited by a recognized national accrediting agency. In lieu of such degree, a candidate may meet criteria established by the Association of State and Provincial Psychology Boards (ASPPB);

(2) has not within the preceding six months failed an examination given by the Board;

(3) is competent in psychology as shown by passing such written and oral examinations as the Board deems necessary;

(4) is not engaged in unethical practices; and

(5) has had two years of supervised professional experience, one year of which may be pre-doctoral. The supervisor shall be a psychologist in good standing who is licensed in the State or who holds an equivalent license in good standing from another state. Supervision shall be within the area of the supervisor's competency. There shall be a minimum of one hour per week of face to face supervision as set out in a supervision contractual

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agreement between the supervisor and supervisee, and a minimum of fifty (50) percent of supervision hours must be in-person. The Board shall be notified in writing by the supervisor of the details of the supervisory agreement, when applicable, prior to its initiation and at its conclusion. When the Board deems appropriate, the supervised experience may be waived.

B.(1) An educational institution which is accredited by a recognized regional accrediting agency of colleges and universities is defined as an educational institution which satisfies the standards of the following accrediting association in one of the six regions throughout the United States:

- (a) Southern Association of Colleges and Schools;
- (b) Western Association of Colleges and Schools;
- (c) Northwest Association of Schools and Colleges;
- (d) North Central Association of Colleges and Schools;
- (e) New England Association of Schools and Colleges; or
- (f) Middle States Association of Colleges and Schools.

(2) A program which is accredited by a recognized national accrediting agency is defined as a program which is accredited by the American Psychological Association.

C.(1) Each candidate for licensure must file with the Board written application materials on forms which will be furnished upon request. The application forms must be completed in their entirety with all items completed on all pages. To be assured of Board review, applications for review at a meeting of the Board must be complete 30 days prior to that meeting.

(2) Official, terminal transcripts indicating all graduate course work and degree(s) must be sent by the graduate institution(s) to the Board prior to Board review of the application for licensure.

(3) All educational requirements for licensure (including completion of the doctoral program and the internship or pre-doctoral supervision) must have been satisfied on or before the submission date of the application materials to the Board.

(4) If the Board requests additional information from an applicant, the applicant has 90 days to respond. Failure to respond within 90 days may result in denial of the application. Thereafter, the applicant may be required to submit a new application, fee and documentation. This 90 day deadline may be extended at the discretion of the Board.

(5) The Board has no formal agreements with other state boards to license applicants by reciprocity. The Board can consider for licensure by reciprocity only those applicants for licensure who have been previously licensed by a state board whose criteria for licensure are equal to or more stringent than the criteria used by this Board.

(6) The application process consists of the following requirements:

(a) A Preliminary Application for Licensure which must be approved by the Board prior to continuation with the licensure application process; the Preliminary Application for Licensure must be accompanied by the application fee. The Preliminary Application for Licensure documents graduate course work and training appropriate for licensure; if the applicant has not graduated from a program accredited by the American Psychological Association, then the applicant must attach supporting materials to the Preliminary Application for Licensure (including a description of the graduate program, course descriptions, and program information from a graduate bulletin) to assist Board members in the evaluation of the graduate program.

(b) Formal Application materials which include, but are not limited to, a Formal Application, Pre-doctoral Supervision Form, Supervision Contract, Supervisor's Report Form, three professional references and documentation of a passing score on the Examination for the Professional Practice of Psychology.

(7) An applicant must satisfactorily complete all requirements for licensure within three years from the date of Board approval of the Preliminary Application for Licensure or the applicant may be required to submit a new application, fee and documentation. The Board may extend this period upon sufficient proof of hardship submitted to the Board.

(8) An applicant for a Temporary Permit must complete both the Preliminary Application for Licensure and Formal Application materials and submit these materials with the Temporary Permit fee.

D. An applicant may only advertise in those areas of practice for which he or she demonstrates competence, and appropriate education and training as determined by the Board.

100-2. Examinations.

A. Written examination.

(1) The written examination shall be the Examination for the Professional Practice of Psychology. A passing score on this examination shall be determined by the American Association of State and Provincial Psychology Boards (ASPPB).

B. Oral examination.

(1) A candidate is examined for knowledge of scope of practice, familiarity with professional ethics and familiarity with issues of jurisprudence by a member of the Board.

(2) Entrance to the oral examination is contingent upon prior approval of the Preliminary Application for Licensure and receipt of all Formal Application materials, including a passing score on the Examination for the Professional Practice of Psychology.

(3) An applicant for licensure must personally appear before the Board for the oral examination. In lieu of a full Board appearance, the Board may delegate the oral examination to an individual Board member for administration of the oral examination.

(4) An applicant who fails the oral examination must wait six months before the oral examination can be attempted again.

100-4. Code of Ethics.

A. Introduction.

(1) Code of ethics. These rules of conduct constitute the code of ethics as adopted by the American Psychological Association (“APA”) and as required by the Code of Laws of South Carolina. The Board adopts and incorporates by reference the APA Code of Ethics as the code of ethics for individuals licensed by this Board.

(2) Purpose. The rules of conduct constitute the standards against which the professional conduct of a psychologist is measured. Licensure as a psychologist in the State commits the licensed psychologist to adherence to these rules of conduct.

(3) Scope. The psychologist shall be governed by these rules of conduct whenever providing psychological services in any context. The rules of conduct shall not supersede other state or federal regulations; however, whenever possible, these rules of conduct should be followed along with state and federal law. These rules of conduct shall apply to the conduct of each licensee and each applicant for licensure, including the applicant’s conduct during the period of education, training and supervision which is required for licensure. The term “psychologist,” as used within these rules of conduct, shall be interpreted accordingly.

(4) Responsibility for own actions. The psychologist shall be fully responsible for his/her own professional decisions and professional actions.

(5) Violations. A violation of these rules of conduct constitutes unprofessional conduct and is sufficient reason for disciplinary action or denial of either original licensure or reinstatement of licensure.

B. Definitions.

(1) Client. “Client” means a receiver of psychological services. A corporate entity or other organization can be a client when the professional contract is to provide services of benefit primarily to the organization rather than to individuals. In the case of individuals with legal guardians, including minors and legally incompetent adults, the legal guardian shall be the client for decision-making purposes, except that the individual receiving services shall be the client for:

(a) Issues directly affecting the physical or emotional safety of the individual, such as sexual or other exploitative dual relationships; and

(b) Issues specifically reserved to the individual and agreed to by the guardian prior to rendering of services, such as confidential communication in a therapy relationship.

(2) Confidential information. “Confidential information” means information revealed by an individual or individuals or otherwise obtained by a psychologist, where there is reasonable expectation that, because of the relationship between the individual(s) and the psychologist or the circumstances under which the information was revealed or obtained, the information shall not be disclosed by the psychologist without the informed consent of the individual(s). When a corporation or other organization is the client, rules of confidentiality apply to information pertaining to the organization, including personal information about individuals when obtained in the proper course of that contract. Such information about individuals is subject to confidential control of the organization, not of the individual, and can be made available to the organization, unless there is reasonable

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expectation by such individual(s) that such information was obtained in a separate professional relationship with the individual(s) and is therefore subject to confidentiality requirements in itself.

(3) Licensed. "Licensed" means licensed by the South Carolina Board of Examiners in Psychology when such term identifies a person whose professional behavior is subject to regulation by the Board.

(4) Professional service. "Professional service" means all actions of the psychologist in the context of a professional relationship with a client.

(5) Supervisee. "Supervisee" means any person who functions under the extended authority of the psychologist to provide, or while in training to provide, psychological services.

### C. Competence.

(1) Limits on practice. A psychologist shall limit practice and supervision to the area(s) of competence in which proficiency has been gained through education, training and experience as demonstrated to the Board.

(2) Accurate representation. A psychologist shall accurately represent areas of competence, education, training, experience and professional affiliations of the psychologist to the Board, the public and colleagues.

(3) Maintaining competency. A psychologist shall maintain current competency in the area(s) in which he/she practices through continuing education, consultation and/or other procedures, in conformance with current standards of scientific and professional knowledge.

(4) Adding new services and techniques. The psychologist, when developing competency in a service or technique that is either new to the psychologist or new to the profession, shall engage in ongoing consultation with other psychologists or relevant professionals and shall seek appropriate education and/or training in the new area. When such competence involves providing direct human services, the psychologist should inform clients of the innovative nature and the known risks associated with the service(s), so that the client can exercise freedom of choice concerning such service(s).

(5) Referral. The psychologist shall make or recommend referral to other professional, technical or administrative resources when such referral is clearly in the best interests of the client(s).

(6) Sufficient professional information. A psychologist rendering a formal professional opinion about a person (for example, about the fitness of a parent in a custody hearing) shall not do so without direct and substantial professional contact with and a formal assessment of that person.

### (7) Maintenance and retention of records.

(a) The psychologist rendering professional individual services to a client (or a dependent), or services billed to a third party payor, shall maintain professional records that include:

(i) The presenting problem(s) or purpose or diagnosis;

(ii) The fee arrangement;

(iii) The date and substance of each billed or service-count contact or service;

(iv) Any test results or other evaluative results obtained and any basic test data from which they were derived;

(v) Notation and results of formal consults with other providers; and

(vi) A copy of test or other evaluative reports prepared as part of the professional relationship.

(b) To meet the requirements of these rules, but not necessarily for other legal purposes, the psychologist shall assure that all data entries in the professional records are maintained for a period of not less than seven years after the last date that service was rendered or seven years after the age of majority, whichever is later. The psychologist shall also abide by other legal requirements for record retention, even if longer periods of retention are required for other purposes.

(c) The psychologist shall store and dispose of written, electronic and other records in such manner as to assure their confidentiality.

(d) For each person professionally supervised, the psychologist shall maintain, for a period of not less than five years after the last date of supervision, a record of each supervisory session that shall include, among other information, the type, place, and general content of the session.

### (8) Continuity of care.

(a) A psychologist should plan for facilitating services in the event that psychological services are interrupted to deal with the needs of clients during periods of foreseeable or unforeseeable absences from professional availability and inform clients arrangements have been made.

(b) A psychologist must make plans in advance to facilitate the appropriate transfer and to protect the confidentiality of records and data in the event of the psychologist's withdrawal from positions or practice.

(c) The psychologist shall designate a partner, personal representative, or other responsible party to assume responsibility for continuity of care, as described above in (a) and (b) in circumstances whereby the licensee is unable for any reason to provide continuity of care, appropriate referral or client records upon a valid request of the patient. Each psychologist licensee must affirm that the licensee has read and understands this obligation and identify a representative or representatives upon application for initial licensure and application for renewal of licensure.

D. Impaired objectivity and dual relationships.

(1) Impaired psychologist. The psychologist shall not undertake or continue a professional relationship with a client when the psychologist is, or could reasonably be expected by the Board to be, impaired due to mental, emotional, physiologic, pharmacologic, or substance abuse conditions. If such a condition develops after a professional relationship has been initiated, the psychologist shall terminate the relationship in an appropriate manner, shall notify the client in writing of the termination, and shall assist the client in obtaining services from another professional.

(2) Dual relationships affecting psychologist's judgment. The psychologist shall not undertake or continue a professional relationship with a client when the objectivity or competency of the psychologist is, or could reasonably be expected by the Board to be, impaired. Factors that should be considered by the psychologist include the psychologist's present or previous familial, social, sexual, emotional, financial, supervisory, political, administrative, professional, or legal relationship with the client or a relevant person associated with or related to the client. If such dual relationship develops or is discovered after the professional relationship has been initiated, the psychologist shall terminate the professional relationship in an appropriate manner, shall notify the client in writing of this termination, and shall assist the client in obtaining services from another professional.

(3) Prohibited dual relationships.

(a) The psychologist, in interacting with any current human services client or with a person to whom the psychologist has at any time within the previous 60 months rendered counseling, psychotherapeutic, or other professional psychological services for the evaluation, treatment or amelioration of emotional distress or behavioral inadequacy, shall not:

(i) Engage in any verbal or physical behavior toward him/her which is sexually seductive, demeaning, or harassing; or

(ii) Engage in sexual intercourse or other physical intimacies with him/her; or

(iii) Enter into a financial or other potentially exploitative relationship with him/her.

(b) The prohibitions set out in (a) above shall not be subject to the 60-month limitation and shall extend indefinitely if the client is proven to be clearly vulnerable, by reason of emotional or cognitive disorder, to exploitative influence by the psychologist.

(4) Supervisees. A psychologist shall not initiate or continue a relationship involving the supervision of professional activities with an employee/supervisee when the objectivity or competency of the psychologist is, or could be expected by the Board to be, impaired. Factors that should be considered by the psychologist include the psychologist's present or previous familial, social, sexual, emotional, financial, supervisory, political, administrative, professional, or legal relationship with the client or a relevant person associated with or related to the employee/supervisee.

E. Client welfare.

(1) Providing explanation of procedures. A psychologist shall give, subject to professional judgment, a truthful, understandable, and complete account of the client's condition to the client or those responsible for the care of the client. The psychologist shall keep the client fully informed as to the purpose and nature of any evaluation, treatment or other procedures and of the client's right to freedom of choice regarding services provided.

(2) Termination of services. Whenever professional services are terminated, the psychologist shall offer to help locate alternative sources of professional services or assistance, if indicated. The psychologist shall terminate a professional relationship when it is reasonably clear that the client is not benefiting from the relationship and shall prepare the client appropriately for such termination.

(3) Stereotyping. The psychologist shall not impose on the client any stereotypes of behavior, values or roles related to age, gender, religion, race, disability, nationality or sexual preference or diagnosis which would interfere with the objective provision of psychological services to the client.

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(4) Sexual or other dual relations with a client. The psychologist shall not enter into a sexual or other dual relationship with a client, as specified in Section (D) of these rules of conduct.

(5) Solicitation of business by clients. The psychologist providing human services to a client shall not induce that client to solicit business on behalf of the psychologist.

(6) Referrals on request. The psychologist providing human services to a client shall make an appropriate referral of the client to another professional when requested to do so by the client.

### F. Welfare of supervisees and research subjects.

(1) Welfare of supervisees. The psychologist shall not exploit a supervisee in any way - sexually, financially or otherwise.

(2) Welfare of research subjects. The psychologist shall respect the dignity and protect the welfare of his/her research subjects and shall comply with all relevant statutes and administrative rules concerning treatment of research subjects.

### G. Protecting confidentiality of clients.

(1) In general. The psychologist shall safeguard the confidential information obtained in the course of practice, teaching, research or other professional duties. With the exceptions set forth below, the psychologist shall disclose confidential information to others only with the informed written consent of the client.

(2) Disclosure without informed written consent. The psychologist may disclose confidential information without the informed written consent of the psychologist when the psychologist judges that disclosure is necessary to protect against a clear and substantial risk of imminent serious harm being inflicted by the client on the client or another person. In such case, the psychologist shall limit disclosure of the otherwise confidential information to only those persons and only that content which would be consistent with the standards of the profession in addressing such problems.

(3) Services involving more than one interested party. In a situation in which more than one party has an appropriate interest in the professional services rendered by the psychologist to a recipient or recipients, the psychologist shall, to the extent possible, clarify to all parties prior to rendering the professional services the dimensions of confidentiality and professional responsibility that shall pertain in the rendering of services. Such clarification is specifically indicated, among other circumstances, when the client is an organization.

(4) Multiple clients. When service is rendered to more than one client during a joint session, the psychologist shall at the beginning of the professional relationship clarify to all parties the manner in which confidentiality will be handled. All parties shall be given opportunity to discuss and to accept whatever limitations to confidentiality adhere in the situation.

(5) Legally dependent clients. At the beginning of a professional relationship, to the extent that the client can understand, the psychologist shall inform a client who is below the age of majority or who has a legal guardian of the limit the law imposes on the right of confidentiality with respect to his/her communications with the psychologist.

(6) Limited access to client records. The psychologist shall limit access to client records to preserve their confidentiality and shall assure that all persons working under the psychologist's authority comply with the requirements for confidentiality of client material.

(7) Release of confidential information. The psychologist may release confidential information in compliance with the Code of Laws of South Carolina or to conform to other state or federal law, rule or regulation.

(8) Reporting of abuse of children and vulnerable adults. The psychologist shall be familiar with any relevant law concerning the reporting of abuse of children and vulnerable adults and shall comply with such law.

(9) Discussion of client information among professionals. When rendering professional services as part of a team or when interacting with other appropriate professionals concerning the welfare of the client, the psychologist may share confidential information about the client to the extent permitted by the Code of Laws of South Carolina, provided the psychologist takes reasonable steps to assure that all persons receiving the information are informed about the confidential nature of the information and abide by the rules of confidentiality.

(10) Disguising confidential information. When case reports or other clinical materials are used as the basis of teaching, research or other published reports, the psychologist shall exercise reasonable care to insure that the reported material is appropriately disguised to prevent client identification.

(11) Observation and electronic recording. The psychologist shall ensure that diagnostic interviews or therapeutic sessions with a client are observed or electronically recorded only with the informed consent of the client.

(12) Confidentiality after termination of professional relationship. The psychologist shall continue to treat as confidential information regarding a client after the professional relationship between the psychologist and the client has ceased.

#### H. Representation of services.

(1) Psychologists shall clearly communicate licensure status to practice psychology in this state by displaying a South Carolina license prominently on the premises of the professional practice or by providing visual access to their license upon request.

(2) Misrepresentation of qualifications. Psychologists shall not misrepresent directly or by implication their professional qualifications such as education, experience or areas of competence.

(3) Misrepresentation of affiliations. Psychologists shall not misrepresent directly or by implication their affiliations or the purposes or characteristics of institutions and organizations with which they are associated.

(4) False or misleading information. Psychologists shall not include false or misleading information in public statements concerning psychological services offered.

(5) Misrepresentation of services or products. Psychologists shall not associate with or permit their name to be used in connection with any services or products in such a way as to misrepresent:

(a) The services or products;

(b) The degree of the psychologist's responsibility for the services or products; or

(c) The nature of the psychologist's association with the services or products.

(6) Correction of misrepresentation by others. Psychologists shall correct others who misrepresent the psychologist's professional qualifications or affiliations.

#### I. Fees and statements.

(1) Disclosure of cost of services. The psychologist shall not mislead or withhold from the client, prospective client or third-party payor, information about the cost of professional services.

(2) Reasonableness of fees. The psychologist shall not exploit the client or responsible payor by charging a fee that is excessive for the services performed or by entering into an exploitative bartering arrangement in lieu of a fee.

(3) Itemized fee statement. The psychologist shall itemize fees for all services for which the client or a third party payor is billed and ensure that the itemized statement is available to the client. The statement shall identify the date on which the service was performed, the nature of the service, the name of the individual providing the service and the name of the individual who is professionally responsible for the service.

(4) No misrepresentation. The psychologist shall not misrepresent directly or by implication to the client or to a third party payor billed for services the nature of services, the identity of the person who provided the services or the individual who is professionally responsible for the services provided.

(5) Fees to be claimed only by the provider. The psychologist shall not claim a fee for services unless the psychologist is the direct provider of the services or the individual who is professionally responsible for the provision of the services and under whose direction the services were provided.

(6) No remuneration for referrals. No commission, rebate or other form of remuneration may be given or received by a psychologist for the referral of clients for psychological services.

#### J. Assessment procedures and reports.

(1) Confidential information. A psychologist shall treat an assessment result or interpretation regarding an individual as confidential information.

(2) Communication of results. The psychologist should accompany, subject to professional judgment, communication of results of assessment procedures to the client, parents, legal guardians or other agents of the client by adequate interpretive aids or explanations.

(3) Reservations concerning results. The psychologist shall include in the report of the results of an assessment procedure any deficiencies of the assessment norms for the individual assessed and any relevant reservations or qualifications which affect the validity, reliability or other interpretations of results.

(4) Protection of integrity of assessment procedures. The psychologist shall not reproduce or describe in popular publications, lectures or public presentations psychological tests or other assessment devices in ways that might invalidate them.



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(5) Information for professional users. A psychologist offering an assessment procedure or automated interpretation service to other professionals shall accompany this offering by a manual or other printed material which fully describes the development of the assessment procedure or service, the rationale, evidence of validity and reliability, and characteristics of the normative population. The psychologist shall explicitly state the purpose and application for which the procedure is recommended and identify special qualifications required to administer and interpret it properly. The psychologist shall ensure that advertisements for the assessment procedure or interpretative service are factual and descriptive.

### K. Violations of law.

(1) Violation of applicable statutes. The psychologist shall not violate any applicable statute or administrative rule regulating the practice of psychology.

(2) Use of fraud, misrepresentation or deception. The psychologist shall not use fraud, misrepresentation or deception in obtaining a psychology license, in passing a psychology licensing examination, in assisting another to obtain a psychology license or to pass a psychology licensing examination, in billing clients or third party payers, in providing psychological service(s), in reporting the results of psychological evaluations or services or in conducting any other activity related to the practice of psychology.

### L. Aiding illegal practice.

(1) Aiding unauthorized practice. A psychologist shall not aid or abet another person in misrepresenting professional credentials or in illegally engaging in the practice of psychology.

(2) Delegating professional authority. A psychologist shall not delegate responsibilities to a person not appropriately credentialed or otherwise appropriately qualified to provide such services.

(3) Providing supervision. A psychologist shall exercise appropriate supervision over supervisees, as set forth in the rules and regulations of the Board.

(4) Reporting of violations to Board. The psychologist who has substantial reason to believe that there has been a violation of the statutes or rules of the Board shall so inform the Board in writing on forms provided by the Board, except that, when the information regarding such violation is obtained in a professional relationship with a client, the psychologist shall report it only with the written permission of the client. Nothing in this code shall relieve a psychologist of the duty to file any report required by applicable statutes.

## 100-6. Advertising.

A. Public statements, announcements of services, advertising, and promotional activities of psychologists serve the purpose of helping the public make informed judgments and choices. Psychologists represent accurately and objectively their professional qualifications, affiliations, and functions, as well as those of the institutions or organizations with which they or the statements may be associated. In public statements providing psychological information or professional opinions or providing information about the availability of psychological products, publications, and services, psychologists must base their statements on scientifically acceptable psychological findings and techniques with full recognition of the limits and uncertainties of such evidence.

1. When announcing or advertising professional services, psychologists may list the following information to describe the provider and services provided: name, highest relevant academic degree earned from a regionally accredited institution, date, type and level of certification or licensure, diplomat status, APA membership status, address, telephone number, office hours, a brief listing of the type of psychological services offered, an appropriate presentation of fee information, languages spoken or signed, and policy with regard to third-party payments. Additional relevant or consumer information may be included if not prohibited by other sections of these Ethical Principles.

2. In announcing or advertising the availability of psychological products, publications, or services, psychologists must not present their affiliation with any organization in a manner that falsely implies sponsorship or certification by that organization. In particular and for example, psychologists may not state APA membership or fellow status in a way to suggest that such status implies specialized professional competence or qualifications.

3. Public statements include, but are not limited to, communication by means of periodical, book, list, directory, television, radio, or motion picture. They may not contain: (a) a false, fraudulent, misleading, or deceptive statement; (b) a statement intended or likely to create false or unjustified expectations of favorable results; or (c) a statement implying unusual, unique, or one-of-a-kind abilities.

100-8. Guidelines for the Employment and Supervision of Unlicensed Persons Providing Psychological Services.

A. Supervised unlicensed persons are defined as those individuals, whether on the path toward licensure or not, performing revenue-producing services of a psychological nature (e.g. psychological assessment, administering and scoring psychological tests, interviewing, individual and group psychotherapy, behavior modification) under the supervision of the licensed psychologist. Trainees and employees in state or federal agencies/facilities are not included in this group and are therefore not subject to the below requirements.

B. Qualifications. The supervising psychologist shall be licensed for the practice of psychology and have adequate training, knowledge and skill to render competently any psychological service which his/her supervisee undertakes.

C. Qualifications of unlicensed persons providing psychological services. The unlicensed service provider must have background, training and experience appropriate to the functions performed. The licensed supervising psychologist is responsible, subject to Board review, for determining the adequacy of preparation of the unlicensed service provider and the designation of his/her title in accordance with the Code of Laws of South Carolina.

D. Conditions for utilization of unlicensed persons providing psychological services.

(1) The licensed psychologist must register the following information, and any other information deemed necessary by the Board, with the Board at the time of biennial license renewal:

- (a) The name of the unlicensed person rendering the psychological service;
- (b) The nature of the psychological services rendered;
- (c) The qualifying academic training and experience of the unlicensed person;
- (d) The nature of the continuing supervision provided by the licensed psychologist.

(2) The person providing psychological services who is not licensed by the Board must be under the direct and continuing administrative and professional supervision of a psychologist licensed by the Board.

(3) The licensed psychologist must be vested with administrative control over the functioning of the unlicensed person in order to maintain ultimate responsibility for the welfare of every client. When the employer is other than the licensed psychologist, the licensed psychologist must have direct input into administrative matters.

(4) The licensed psychologist shall have sufficient knowledge of all clients, including face-to-face contact when necessary, in order to plan effective service delivery procedures. The progress of the work shall be monitored through such means as will ensure that full legal and professional responsibility can be accepted by the supervising psychologist for all services rendered. Supervising psychologists shall also be available for emergency consultation and intervention.

(5) Work assignments shall be commensurate with the skills of the unlicensed person. All procedures shall be planned in consultation with the supervising psychologist.

(6) The unlicensed employee shall work in the same physical setting as the supervising psychologist, unless other individual arrangements have been approved, in advance, by the Board.

(7) Public announcement of services and fees and contact with the lay or professional community shall be offered only in the name of the supervising licensed psychologist. The title of the unlicensed person must clearly indicate his/her supervised status.

(8) Users of the unlicensed person's services shall be informed of his/her status and shall be given specific information as to his/her qualifications and functions.

(9) Clients shall be informed of the possibility of periodic meetings with the supervising psychologist at their, the service provider's, or the supervising psychologist's request.

(10) Setting and receipt of payment shall remain the sole domain of the employing agency or supervising psychologist.

(11) The supervising psychologist shall establish and maintain a level of supervisory contact consistent with established professional standards and be fully accountable in the event that professional, ethical or legal issues are raised.

(12) No more than the equivalent of three (3) full-time supervisees may be registered for any one supervising licensed psychologist.

E. Conduct of supervision. It is recognized that the variability in the preparation for practice of all personnel will require individually tailored supervision. The range and content of supervision will have to be arranged

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between the individual supervising psychologist and the unlicensed person. A detailed job description in which functions are designated at varying levels of difficulty, requiring increased levels of training, skill and experience should be available. This job description shall be made available to the Board and service recipients, upon request.

(1) Employment of a person who provides psychological services and who is not licensed by the Board requires the supervision of a licensed psychologist.

(2) The licensed psychologist may not be in the employ of his/her supervisee.

(3) The supervising psychologist is responsible for the planning, course and outcome of the psychological services performed by the supervisee. The conduct of supervision shall insure the professional, ethical and legal protection of the client and of the unlicensed person.

(4) An ongoing record of supervision shall be maintained which details the types of activities in which the unlicensed person is engaged, the level of competence in each activity and the outcome of all procedures.

(5) All written reports and communications shall be reviewed, approved and countersigned as by the supervising licensed psychologist.

### 100-9. Organization of the Board.

#### A. Officers.

(1) The officers of the Board shall be the Chair and the Vice-Chair who shall be elected annually and serve a one year term or until their successors shall have been elected.

(2) The Chair shall preside at all meetings and shall perform other duties as the Board may direct. In his/her absence, the next senior officer of the Board will preside.

#### B. Meetings.

(1) At least one meeting shall be held each year.

(2) Other meetings will be arranged as the need is determined by members of the Board.

(3) Special meetings may be held upon the call of the Chair upon five days' written notice.

(4) Called meetings may be held at the written request of any two members of the Board.

(5) Telephone conference meetings may be held at the request of the Chair of the Board to initiate any action which requires consideration before a regular meeting of the Board.

#### C. Board Actions.

Official actions of the Board are those actions approved by official vote of the Board. Unofficial statements made by an individual Board member or staff member are not binding on the Board.

### 100-10. Continuing Education Credits.

A. Number of credits. Each licensed psychologist shall earn a minimum of twenty-four (24) approved continuing education credits during each two year biennial licensure period.

B. Types of credit. A minimum of twelve (12) continuing education credits must be accumulated from Category A offerings and a maximum of twelve (12) continuing education credits can be accumulated from Category B offerings. Psychologists can elect to earn all of their continuing education credits from Category A offerings.

(1) Category A experiences generally include formal activities wherein direct contact hours can be exchanged for continuing education credits on a one to one basis. Each offering under Category A should have a mechanism by which to measure the exchange of information, and, with respect to item (e) below, these offerings must be relevant to psychologist's area(s) of practice. It is the responsibility of the licensed psychologist to confirm completion of each educational experience completed below. Category A generally includes, but is not limited to:

(a) Offerings by regionally accredited institutions of higher learning;

(b) Offerings by the American Psychological Association approved internship training programs;

(c) Offerings by the American Psychological Association, by American Psychological Association approved sponsors, and/or by state or regional psychological associations;

(d) Teaching a graduate course designed for the education of psychologists the first time it is taught;

(e) Offerings by sponsors approved by other national professional organizations that are relevant to specialty area of licensure;

(f) Publishing a scholarly work of a psychological nature in a refereed publication or participating in an editorial review process.

(2) Category B usually involves more informal offerings than Category A and includes, but is not limited to:

- (a) Peer review or supervision by another licensed psychologist or another mental health professional;
- (b) Consultation with another licensed psychologist or another mental health professional;
- (c) Publishing a scholarly work of a psychological nature in a non-refereed publication;
- (d) Attendance or presentation at professional, educational, or scientific meetings, seminars, workshops, etc. of local, state, regional, or national professional organizations or agencies; or
- (e) Reading of professional journals and listening to/viewing self-study tapes and courses of a psychological nature.

C. No carryover of continuing education credits. Under no circumstances will a licensed psychologist who earns more than the minimum number of continuing education credits in the twenty-four (24) month licensure period be permitted to carry over the excess credits to the following licensure period.

D. Reporting of credits. Each licensed psychologist shall report, on a form provided by the Board, completion of a minimum of twenty-four (24) approved continuing education credits in the twenty-four (24) month licensure period at the time of licensure renewal.

E. Monitoring of credits. The Board will request written documentation of completion of a minimum of twenty-four (24) approved continuing education credits during the previous twenty-four (24) month licensure period from a randomly selected sample of licensed psychologists.

F. Penalties. When a licensed psychologist is unable to provide the Board with written documentation of completion of a minimum of twenty-four (24) approved continuing education credits during the previous twenty-four (24) month licensure period, a penalty will be determined by the Board on an individual basis.

APPENDIX A ASSOCIATION OF STATE AND PROVINCIAL PSYCHOLOGY BOARDS CRITERIA  
Repealed.

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

The updated regulation will conform to the practice act by: deleting the provision allowing an applicant to hold a doctoral degree in a closely allied field of psychology; requiring that a minimum of fifty percent of supervision hours must be in-person; adding a requirement that psychologists make plans for continuity of patients' care should the psychologist become unable for any reason to continue providing care to patients; extending the number of months a psychologist must wait before engaging in a sexual or financial relationship with a client from 24 to 60 months; defining supervised unlicensed persons; clarifying continuing education requirements, and deleting an appendix that stated the criteria used to identify and designate educational programs as psychology programs.

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Document No. 5253  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**SOUTH CAROLINA REAL ESTATE COMMISSION**  
CHAPTER 105

Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-57-60, 40-57-135, 40-57-320, 40-57-340, and  
40-57-740

105-6. Course Curriculum and Attendance.  
105-8. Other Operating Procedures.  
105-10. Instructors.  
105-11. Renewals.  
105-13. Fees.

### Synopsis:

The South Carolina Real Estate Commission proposes to amend various sections of Chapter 105, including but not limited to R.105-6, R.105-8, R.105-10, R.105-11, and R.105-13. Additionally, the Commission intends to promulgate new regulations that provide more clarity regarding broker supervision and that provide re-examination procedures for those applicants who do not pass the respective licensing exam.

A Notice of Drafting was published in the *State Register* on February 24, 2023.

### Instructions:

Print the regulation as shown below. All other items remain unchanged.

### Text:

105-6. Course Curriculum, Approval, Attendance, and Verification.

A. For pre-licensing courses, providers must teach courses in separate and distinct units consisting of the minimum hours as specified in S.C. Code Sections 40-57-320(A)(1)(a), 40-57-320(A)(2)(a) and 40-57-510(C)(1)(a).

(1) Pre-licensing courses must provide students with information on licensing requirements, familiarization with the Commission's statutes and regulations, and how to apply for licensure with the Commission.

B. For continuing education, providers must teach courses in subjects which increase the knowledge, skill and/or competence of real estate licensees with regard to the performance of their duties in a manner that best serves the public interest.

(1) Core courses are those which must include a minimum of four (4) classroom hours of instruction on current federal and state real estate law. In accordance with S.C. Code Section 40-57-340, all active salesperson, broker, and broker-in-charge licensees must complete a core course each renewal cycle unless they have been granted a full continuing education waiver by the Commission.

(2) Elective courses are those which are offered in general subjects prescribed by the Commission including but not limited to topics outlined in S.C. Code Section 40-57-340(G) and (H).

C. Application Requirements for Course Approval.

(1) Providers must submit learning objectives and detailed lesson plans reflecting the course content with time allotments.

(2) Providers must identify all texts being used. The Commission may direct the provider to withdraw texts and/or may require additional instructional materials.

(3) Providers must identify a Commission-approved instructor responsible for teaching the course in accordance with S.C. Code Section 40-57-740(H) and South Carolina Code of Regulations 105-10.

(4) Courses being offered via distance learning must include a copy of ARELLO or IDECC certification in accordance with S.C. Code Section 40-57-340(F).

(5) For pre-licensing courses:

(a) A copy of all quizzes and examinations, including re-examinations, must be submitted. The minimum passing score for a proctored final examination is 70%.

(b) Examinations may only be administered and monitored by an approved real estate instructor, school administrator, or qualified person.

(c) Providers must establish uniform testing and grading procedures for all quizzes and examinations.

(d) No provider, instructor, or other individual may arbitrarily alter a student's grade or offer students any re-examination of the same test previously administered.

(e) Re-examinations must contain at least eighty (80%) percent new exam items. Copies of both the initial examination and the re-examination must be submitted to the Commission.

(f) After two failed attempts at passing the pre-licensing course examination, a student must retake the pre-licensing course in order to be eligible to sit for the pre-licensing course examination again.

(g) The Commission may direct alterations in examination procedures, criteria for passing, and administration whenever deemed necessary.

(6) Failure to meet the above-listed requirements may result in the Commission withdrawing course approval. Following corrections, providers may reapply for reinstatement of course approval from the Commission.

#### D. Course Length and Attendance.

##### (1) For pre-licensing courses:

(a) Courses must be at least two (2) hours in length and may not exceed eight (8) hours on any given day.

(i) Students must be allowed one (1) ten-minute break each hour and for classes that exceed four (4) hours, students must be allowed at least one (1) half-hour break. Time needed to complete administrative tasks must be conducted outside instructional time.

(ii) No meals may be served during class.

(b) Providers must require strict attendance and must maintain records indicating number of student absences. No partial credit hours are permitted.

(c) Students failing to meet the minimum hour requirement may engage in make-up sessions provided the following parameters are met:

(i) a make-up session offered by the provider consisting of the content in the session or hours missed; or

(ii) a recording of the class session missed to be viewed by the student and supervised by the instructor only if the student missed less than twenty (20%) percent of the total course hours; or

(iii) attendance of the same course session offered by the same provider at a future date.

##### (2) For continuing education courses:

(a) Elective courses must be at least one (1) hour in length. No partial credit hours are permitted and licensees must attend the full course to receive credit. For elective courses that are at least two (2) hours in length, students must be allowed one (1) ten-minute break each hour. Time needed to complete administrative tasks must be conducted outside instructional time.

(b) A core course must be four (4) hours in length. Licensees must be allowed one (1) ten-minute break each hour with the remaining fifty (50) minutes being instructional time. Time needed to complete administrative tasks must be conducted outside instructional time.

(c) The mandated broker-in-charge course must be four (4) continuous hours in length. Licensees may be allowed one (1) ten-minute break each hour.

#### E. Verification of Course Completion.

Providers must provide verification of course completion for each individual or licensee who competes a course.

(1) For pre-licensing courses, a certificate of completion, signed and dated by an authorized official of the provider, shall be awarded to each course graduate. The certificate must contain:

(a) course identification number assigned by the Commission;

(b) provider's name and address;

(c) course title, location, and dates;

(d) number of hours of the course;

(e) legal name of the student; and

(f) license number of the student, if applicable.

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(2) For continuing education courses, verification of course completion shall be submitted to the electronic tracking system designated by the Department for compliance and monitoring. Reports must be submitted within fourteen (14) calendar days following course completion.

### 105-8. Other Operating Procedures.

#### A. Teaching Methods.

(1) Pre-licensing and continuing education courses may be conducted via in-person or distance learning. Distance learning courses are those where the licensed instructor and student are physically apart and instruction takes place through interactive classrooms, audio and/or video conferencing, interactive computer modules, and other internet platforms.

(a) In-person and in-person courses utilizing synchronous distance learning portions must be taught by instructors approved by the Commission and must be presented in a physical classroom or approved virtual environment. The distance learning portion of the course must adhere to the Commission's standards for distance learning. Recorded videos used as teaching supplements are not considered distance learning and do not need to meet the distance learning standards.

(b) Distance learning synchronous and asynchronous courses must be taught by instructors approved with the Commission and adhere to the Commission's standards for distance learning. In accordance with S.C. Code Section 40-57-340(F), providers and courses must hold ARELLO or IDECC certification.

(2) Course design must be competency-based and not permit students to only passively observe instruction or read instructional material. Courses must incorporate active student participation through interaction with the instructor, other students, or computer programs at frequent intervals throughout the course.

#### B. Facilities and Equipment.

(1) All classroom facilities must meet the appropriate building, health, and fire codes, and must be maintained in a safe and sanitary condition at all times.

(2) Classrooms shall contain audio-visual equipment and desks or worktables sufficient to accommodate all students enrolled in a course.

(3) Distance learning courses must adhere to ARELLO or IDECC requirements.

#### C. Advertising.

(1) "Advertising" means any form of public notice, including but not limited to, publications, promotional items, and all other efforts which could normally be expected to be seen or heard by prospective students. This includes, but is not limited to, emails, social media posts, catalogs, flyers, signs, mailing pieces, radio, television, audio-visual, newspaper, or any other form of public notice designed to aid in the provider's recruiting and promotional activities. Advertising also includes oral communications.

(2) Advertising for courses must include the provider and course approval number.

(3) Pursuant to S.C. Code Section 40-57-740(D), the Commission may take action against any provider or instructor who has violated the provisions of S.C. Code Section 40-57-5 et seq., S.C. Code Section 40-1-10 et seq., or regulations of the Commission. This includes but is not limited to a provider or instructor who:

(a) uses any unfair or deceptive practice or makes or causes to be made any false, misleading or deceptive statement in any advertising or promotional material which has the tendency or capacity to mislead or deceive students, prospective students, or the public;

(b) advertises or implies that the course is recommended or endorsed by the Commission;

(c) uses abbreviations which tend to mislead or confuse or otherwise create misunderstanding with students or the public;

(d) references the Commission's school report passage rates for first-time examiners. Schools may report passage rates so long as the rates can be substantiated by data collected by the school itself and cannot be based upon the Commission's school report data. Passage rates may only be used if the total number of students is disclosed;

(e) is unable to substantiate from its records any advertised statistics or claims;

(f) falsely represents, either directly or by implication, that students successfully completing a course of instruction may transfer credit to an accredited institution of higher education or that a course has been approved by a particular industry; or

(g) represents that successful completion will ensure passage of the state licensing examinations or obtaining a real estate license.

#### D. Recruitment and Solicitation.

Individuals or companies are prohibited from utilizing course hours or materials to recruit new affiliates for any company, sell promotional materials, or solicit business. Licensees found in violation may be subject to disciplinary action by the Commission. Nothing in the section shall prohibit any individual, company, or brokerage firm from soliciting, marketing, or selling prior to an education course or after the course has been completed. The Commission may take disciplinary action against the licensed broker-in-charge or property manager-in-charge of the brokerage firm or property management office violating this regulation.

#### E. Changes.

Proposed changes to course name, content, length, location, or texts must be submitted to and approved by the Commission prior to implementation.

#### 105-10. Instructors.

A. Approved qualifying courses must be taught by Commission-approved instructors who are actively licensed as brokers by the Commission. Instructors teaching courses which are part of a degree program offered by an accredited college or university and instructors teaching courses for a federal or state agency shall be deemed approved by the Commission.

B. Prior to teaching for any approved provider, applicants for instructor approval must submit an application form along with supporting documentation as proof of knowledge of the subject matter and the ability to teach effectively.

- (1) As proof of knowledge of the subject matter to be taught, the instructor must provide documentation of:
  - (a) an active real estate broker license; or
  - (b) a college degree in an academic area directly related to the course or the specific subject matter to be taught; or
  - (c) other past experience or education acceptable to the Commission in the subject area to be taught, and
- (2) As proof of the ability to teach effectively, the instructor must provide documentation of:
  - (a) a current teaching certificate issued by any state department of education (or an equivalent agency); or
  - (b) Real Estate Educator Association (REEA) Instructor certification or IDECC Certified Distance Education Instructor certification; or
  - (c) a four-year undergraduate degree, or higher, in education; or
  - (d) previous adult-education experience in schools, seminars, or in an equivalent setting for three (3) years, within the past five (5) years; or
  - (e) serving as an assistant instructor under the direct supervision of a Commission-approved instructor for at least sixty (60) hours. Of the sixty (60) hours, fifty-five (55) hours must be documented instructing time; or
  - (f) past experience and knowledge of South Carolina real estate law acceptable to the Commission in education.

- (3) In addition, for continuing education courses, the Commission may require documentation of:
  - (a) three (3) years of work experience, within the past five (5) years, directly related to the subject matter to be taught; or
  - (b) three (3) years of teaching experience within the past five (5) years directly related to the subject matter to be taught.

C. Each instructor may be approved by the Commission to teach pre-licensing education courses, continuing education courses, or both.

D. An instructor may teach approved courses at locations throughout the state of South Carolina. The course provider must notify the Commission of course offerings in advance and record the instructor's name on the provider's completion report.

E. If the application is disapproved, the reason(s) for disapproval will be detailed and the instructor will be given thirty (30) days to rectify the deficiencies identified and submit for re-evaluation. If deficiencies are fully addressed, the application will be approved.

F. Upon instructor approval, the Commission will issue its Certificate of Approval, to be renewed biennially in even-numbered years. Each instructor must make available, when requested, a copy of the Certificate of



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Approval issued by the Commission. If the Certificate of Approval is issued in an odd-numbered year, it shall be renewed the following year, and biennially thereafter.

G. Instructors must attend Instructor Development Workshops sponsored by the Commission biennially.

Instructors of approved continuing education courses may credit time spent teaching approved courses towards the applicable continuing education requirements for maintaining licensure. This credit does not extend to the mandatory four-hour core broker-in-charge course unless the licensee is the instructor of and teaches the four-hour core broker-in-charge course.

### 105-11. Renewals.

All provider, course, and instructor approvals expire biennially on August 31 of even-numbered years. If an approval has expired, the provider or instructor must reapply and meet all requirements in effect at the time of reapplication in order to receive approval for the expired provider, course, or instructor.

### 105-13. Fees.

The Commission may charge fees as shown in South Carolina Code of Regulations Chapter 10-37 and on the South Carolina Real Estate Commission website.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

The updated regulations will address issues including but not limited to instructor qualifications, instructor renewals, the implementation of a core commercial course in addition to a core residential course, and the removal of a reference to an outdated website. The updated regulations will also provide more clarity regarding broker supervision and re-examination procedures for those applicants that do not pass the respective licensing exam.

Document No. 5238

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
SOUTH CAROLINA REAL ESTATE COMMISSION  
CHAPTER 105**

Statutory Authority: 1976 Code Sections 27-50-10(2), 40-1-70, and 40-57-60

### 105-14. Residential Property Condition Disclosure Statement Form. (New)

#### **Synopsis:**

The Real Estate Commission proposes to amend its regulations to comport with S.C. Code Section 27-50-10(2) requiring the Commission to promulgate a regulation for the residential property condition disclosure statement form.

A Notice of Drafting was published in the *State Register* on June 23, 2023.

#### **Instructions:**

Print the regulation as shown below. All other items remain unchanged.

#### **Text:**

### 105-14. Residential Property Condition Disclosure Statement Form.

The South Carolina Code of Laws (Title 27, Chapter 50, Article 1) requires that an owner of residential real property (a single-family dwelling unit or a single transaction involving transfer of four dwelling units or less) shall provide to a purchaser this completed and signed disclosure statement prior to forming a real estate contract. This disclosure must be provided in connection with any sale, exchange, installment land sale, or lease with an option to purchase contract. This disclosure statement is not required in connection with transactions listed and exempted by South Carolina Code Section 27-50-30.

Owners should answer the questions fully, honestly, and appropriately by attaching documents, checking a box for each check box question, and writing in the blanks on this disclosure statement.

If a question is answered “Yes” or asks for a description, then the owner must explain or describe the issue or attach a descriptive report from an engineer, contractor, pest control operator, expert, or public agency. If the owner attaches a report, the owner shall not be liable for inaccurate or incomplete information in the report unless the owner was grossly negligent in obtaining or transmitting the information. If the owner fails to check “Yes” or make a disclosure and the owner knows there is a problem, then the owner may be liable for making an intentional or negligent misrepresentation and may owe the purchaser actual damages, court costs, and attorney fees. If a question is answered “No” for any question, the owner is stating that the owner has no actual knowledge of any problem.

By answering “No Representation” on this disclosure statement, the owner is acknowledging that they do not have the current knowledge necessary to answer the questions with either a “Yes” or “No” response. The owner still has a duty to disclose information that is known at the time of the disclosure statement. “No Representation” should not be selected if the owner simply wishes to not disclose information or answer the question. Selecting “No Representation” does not waive liability if the owner is aware or subsequently becomes aware.

If a question is answered and subsequently new information is obtained or something changes to render the owner’s answer incorrect, inaccurate or misleading (example: roof begins to leak), the owner must promptly correct the disclosure. In some situations, the owner may notify the purchaser of the correction. In some situations, the owner may correct or repair the issue.

The owner shall deliver to the purchaser this disclosure before a real estate contract is signed by the purchaser and the owner, or as otherwise agreed in the real estate contract. The real estate licensee must disclose material adverse facts about the property if actually known by the licensee about the issue, regardless of the owner responses on this disclosure. Owner is solely responsible to complete this disclosure as truthfully and fully as possible. The owner and purchaser are solely responsible to consult with their attorneys regarding any disclosure issues. By signing below, owners acknowledge their duties and that failure to disclose known material information about the property may result in owner liability.

The owner must provide the completed disclosure statement to the purchaser prior to the time the owner and purchaser sign a real estate contract unless the real estate contract states otherwise. The owner should provide a signed copy to the purchaser and keep a copy signed by the purchaser.

A real estate contract, not this disclosure, controls what property transfers from owner to purchaser.

Property Address (including unit # or identifier) \_\_\_\_\_

Apply this question below and the three answer choices to the numbered issues (1-14) on this disclosure.			
<b>As owner, do you have any actual knowledge of any problem(s)* concerning?</b>			
*Problem(s) include present defects, malfunctions, damages, conditions, or characteristics.			
<b>I. WATER SUPPLY AND SANITARY SEWAGE DISPOSAL SYSTEM</b>	<b>Yes</b>	<b>No</b>	<b>No Representation</b>
1. Water supply	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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2. Water quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Water pressure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Sanitary sewage disposal system for any waste water	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

A. Describe water supply:	<input type="checkbox"/> County	<input type="checkbox"/> Private	<input type="checkbox"/> Community	<input type="checkbox"/> Other:
	<input type="checkbox"/> City	<input type="checkbox"/> Corporate	<input type="checkbox"/> Well	
B. Describe water disposal:	<input type="checkbox"/> Septic	<input type="checkbox"/> Private	<input type="checkbox"/> Other:	
	<input type="checkbox"/> Sewer	<input type="checkbox"/> Corporate	<input type="checkbox"/> Government	
C. Describe water pipes:	<input type="checkbox"/> PEX	<input type="checkbox"/> PVC/CPVC	<input type="checkbox"/> Other/Unknown:	
	<input type="checkbox"/> Copper	<input type="checkbox"/> Polybutylene	<input type="checkbox"/> Steel	

<b>II. ROOF, CHIMNEYS, FLOORS, FOUNDATION, BASEMENT, AND OTHER STRUCTURAL COMPONENTS AND MODIFICATIONS OF THESE STRUCTURAL COMPONENTS</b>	<b>Yes</b>	<b>No</b>	<b>No Representation</b>
5. Roof systems A. Approximate year that current roof system was installed: _____. B. During your ownership, describe any known roof system leaks, repairs and/or modifications with dates(s): _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Gutter systems	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Foundation, slab, fireplaces, chimneys, wood stoves, floors, basement, windows, driveway, storm windows/screens, doors, ceilings, interior walls, exterior walls, sheds, attached garage, carport, patio, deck, walkways, fencing, or other structural components including modifications A. Approximate year structure was built: _____. B. During your ownership, describe any structural repairs and/or modifications to the items identified in Question 7 with dates(s): _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<b>III. PLUMBING, ELECTRICAL, HEATING, COOLING, AND OTHER MECHANICAL SYSTEMS</b>	<b>Yes</b>	<b>No</b>	<b>No Representation</b>
8. Plumbing system (pipes, fixtures, water heater, disposal, softener, plumbing components)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Electrical system (wiring, panel, fixtures, A/V wiring, outlets, switches, electrical components)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Appliances (range, stove, ovens, dishwasher, refrigerator, washer, dryer, other appliances)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Built-in systems and fixtures (fans, irrigation, pool, security, lighting, A/V, other)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

12. Mechanical systems (pumps, garage door opener, filtration, energy equipment, safety, other)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. Heating system(s) (HVAC components)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Cooling system(s) (HVAC components)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
A. Describe Cooling System:	<input type="checkbox"/> Central	<input type="checkbox"/> Ductless	<input type="checkbox"/> Heat Pump	<input type="checkbox"/> Window <input type="checkbox"/> Other:
B. Describe Heating System:	<input type="checkbox"/> Central	<input type="checkbox"/> Ductless	<input type="checkbox"/> Heat Pump	<input type="checkbox"/> Furnace <input type="checkbox"/> Other:
C. Describe HVAC Power:	<input type="checkbox"/> Oil	<input type="checkbox"/> Gas	<input type="checkbox"/> Electric	<input type="checkbox"/> Solar <input type="checkbox"/> Other:

**IV. PRESENT OR PAST INFESTATION OF WOOD DESTROYING INSECTS OR ORGANISMS OR DRY ROT OR FUNGUS, THE DAMAGE FROM WHICH HAS NOT BEEN REPAIRED, OR OTHER PEST INFESTATIONS**

A. Describe any known present wood problems caused by termites, insects, wood destroying organisms, dry rot or fungus:

B. Describe any termite/pest treatment, coverage to property, name of provider, and termite bond (if any):

C. Describe any known present pest infestations:

**V. THE ZONING LAWS, RESTRICTIVE COVENANTS, BUILDING CODES, AND OTHER LAND USE RESTRICTIONS AFFECTING THE REAL PROPERTY, ANY ENCROACHMENTS OF THE REAL PROPERTY FROM OR TO ADJACENT REAL PROPERTY, AND NOTICE FROM A GOVERNMENTAL AGENCY AFFECTING THIS REAL PROPERTY**

Apply this question below and the three answer choices to the numbered issues (15-28) on this disclosure.

**As owner, do you have any actual knowledge or notice concerning the following:**

	Yes	No	No Representation
15. Violations or variances of the following: zoning laws, restrictive covenants, building codes, permits or other land use restrictions affecting the real property.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. Designation as a historic building, landmark, site or location within a local historic or other restrictive district, which may limit changes, improvements of demolition of the property.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Easements (access, conservation, utility, other), party walls, shared private driveway, private roads, released mineral rights, or encroachments from or to adjacent real property.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. Legal actions, claims, foreclosures, bankruptcies, tenancies, judgments, tax liens, other liens, first rights of refusal, insurance issues, or governmental actions that could affect title to the property.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. Room additions or structural changes to the property during your ownership.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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20. Problems caused by fire, smoke, or water (including whether any structure on the property has flooded from rising water, water intrusion, or otherwise) to the property during your ownership.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. Drainage, soil stability, atmosphere, or underground problems affecting the property.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22. Erosion, erosion control, or erosion control structure, such as a bulkhead, rock revetment, seawall, or buried sandbags, affecting the property. If "Yes" to Question 22, provide a general description including material, location on the property, approximate size, etc.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
23. Flood hazards, wetlands, flood hazard designations, flood zones, or flood risk affecting the property.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24. Whether the property is currently insured through public (e.g., National Flood Insurance Program) or private flood insurance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25 Private or public flood insurance (e.g., Federal Emergency Management Agency (FEMA)) claims filed on the property during your ownership. If "Yes" to Question 25, list the approximate date(s), general description of event(s), nature of any repair(s), and amounts of all claim(s).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26. Repairs made to the property as a result of flood events that were NOT filed with private or public insurance during your ownership. If "Yes" to Question 26, list the approximate date(s), general description of event(s), nature of any repair(s), and amounts of all flood-related repairs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27. Has federal flood disaster assistance (e.g., from FEMA, Small Business Administration, HUD) been previously received during your ownership? If "Yes" to Question 27, what was the amount received and the purpose of the assistance (elevation, mitigation, restoration, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28. Whether the property has been assessed for a beach nourishment project during your ownership.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

A. Describe any green energy, recycling, sustainability or disability features for the property:

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B. Describe any Department of Motor Vehicles titled manufactured housing on the property:

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**VI. BURIED, UNBURIED, OR COVERED PRESENCE OF THE FOLLOWING: LEAD-BASED PAINT, LEAD HAZARDS, ASBESTOS, RADON GAS, METHANE GAS, STORAGE TANKS, HAZARDOUS MATERIALS, TOXIC MATERIALS, OR ENVIRONMENTAL CONTAMINATION**

A. Describe any known property environmental contamination problems from construction, repair, cleaning, furnishing, intrusion, operating, toxic mold, methamphetamine production, lead based paint, lead hazards, asbestos, radon gas, methane gas, formaldehyde, corrosion-causing sheetrock, storage tanks, hazardous

materials, toxic materials, environmental contamination, or other:

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**VII. EXISTENCE OF A RENTAL, RENTAL MANAGEMENT, VACATION RENTAL, OR OTHER LEASE CONTRACT ANTICIPATED TO BE IN PLACE ON THE PROPERTY AT THE TIME OF CLOSING**

A. Describe the rental/lease terms, to include any vacation rental periods that reasonably may begin no later than ninety days after the date the purchaser’s interest is recorded in the office of the register of deeds, and any rental/leasing problems, if any: \_\_\_\_\_

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B. State the name and contact information for any property management company involved (if any):

---

C. Describe known outstanding charges owed by tenant for gas, electric, water, sewer, and garbage:

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**VIII. EXISTENCE OF A METER CONSERVATION CHARGE, AS PERMITTED BY SECTION 58-37-50 THAT APPLIES TO ELECTRICITY OR NATURAL GAS SERVICE TO THE PROPERTY**

A. Describe any utility company financed or leased property on the real property:

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B. Describe known delinquent charges for real property’s gas, electric, water, sewer, and garbage:

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**IX. WHETHER THE PROPERTY IS SUBJECT TO GOVERNANCE OF A HOMEOWNERS ASSOCIATION WHICH CARRIES CERTAIN RIGHTS AND OBLIGATIONS THAT MAY LIMIT THE USE OF THIS PROPERTY AND INVOLVE FINANCIAL OBLIGATIONS**

	Yes*	No	No Representation
If Yes, owner must complete the attached Residential Property Disclosure Statement Addendum.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**X. PLEASE USE THE SPACE BELOW FOR “YES” ANSWER EXPLANATIONS AND ATTACH ANY ADDITIONAL SHEETS OR RELEVANT DOCUMENTS AS NEEDED**

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This disclosure does not limit the obligation of the purchaser to inspect the property and improvements which are the subject of the real estate contract. Purchaser is solely responsible for conducting their own offsite condition inspections and psychologically affected property inspections prior to entering into a real estate contract. The real estate licensees (acting as listing or selling agents, or other) have no duty to inspect the onsite or offsite conditions of the property and improvements. Purchaser should review all applicable documents (covenants, conditions, restrictions, bylaws, deeds, and similar documents) prior to entering into any legal agreements including any contract. The South Carolina Code of Laws describes the Residential Property Condition Disclosure Statement requirements and exemptions at § 27-50-10 (and following) which can be read online ([www.scstatehouse.gov](http://www.scstatehouse.gov) or other websites).

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Current status of property or factors which may affect the closing:

- Owner occupied     Short sale     Bankruptcy     Vacant (How long vacant?): \_\_\_\_\_
- Leased                 Foreclosure     Estate                 Other: \_\_\_\_\_
  
- Subject to Vacation/Short Term Rental

**A Residential Property Condition Disclosure Statement Addendum  is  is not completed and attached. This addendum should be attached if the property is subject to covenants, conditions, restrictions, bylaws, rules, or is a condominium.**

**Owner acknowledges having read, completed, and received a copy of this Residential Property Condition Disclosure Statement before signing and that all information is true and correct as of the date signed.**

Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Owner Printed Name: \_\_\_\_\_

Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Owner Printed Name: \_\_\_\_\_

**Purchaser acknowledges prior to signing this disclosure:**

Receipt of a copy of this disclosure

Purchaser has examined disclosure

Purchaser had time and opportunity for legal counsel

This disclosure is not a warranty by the real estate licensees

This disclosure is not a substitute for obtaining inspections of onsite and offsite conditions

This disclosure is not a warranty by the owner

Representations are made by the owner and not by the owner’s agents or subagents

Purchaser has sole responsibility for obtaining inspection reports from licensed home inspectors, surveyors, engineers, or other qualified professionals

Purchaser has sole responsibility for investigating offsite conditions of the property including, but not limited to, adjacent properties being used for agricultural purposes

Purchaser Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Purchaser Printed Name: \_\_\_\_\_

Purchaser Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Purchaser Printed Name: \_\_\_\_\_

**State of South Carolina  
Residential Property Condition  
Disclosure Statement Addendum**

Prior to signing a contract, the owner shall provide this disclosure addendum to the purchaser if the property is subject to a homeowners association, a property owners association, a condominium owners association, a horizontal property regime, or similar organizations subject to covenants, conditions, restrictions, bylaws or rules (**CCRBR**). These organizations are referred to herein as an owners association.

Purchaser should review the applicable documents (covenants, conditions, restrictions, bylaws, deeds, condominium master deed, and similar documents), all related association issues, and investigate the owners association prior to entering into any legal agreements including a contract. Owners association charges include any dues, fees, assessments, reserve charges, or any similar charges. Purchaser is solely responsible to determine what items are covered by the owners association charges.

Property Address: \_\_\_\_\_

Describe owners association charges: \$ \_\_\_\_\_ Per \_\_\_\_\_ (month/year/other)

What is the contact information for the owners association? \_\_\_\_\_

<b>As owner do you have any actual knowledge of answers to the following questions? Please check the appropriate box to answer the questions below.</b>			
	<b>Yes</b>	<b>No</b>	<b>No Representation</b>
1. Are there owners association charges or common area expenses?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Are there any owners association or <b>CCRBR</b> resale or rental restrictions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Has the owners association levied any special assessments or similar charges?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Do the <b>CCRBR</b> or condominium master deed create guest or visitor restrictions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Do the <b>CCRBR</b> or condominium master deed create animal restrictions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Does the property include assigned parking spaces, lockers, garages or carports?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Are keys, key fobs or access codes required to access common or recreational areas?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Will any membership other than owner association transfer with the properties?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Are there any known common area problems?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Is property or common area structures subject to South Carolina Coastal Zone Management Act?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Is there a transfer fee levied to transfer the property?*( <i>*Questions does not include recording costs related to value or deed stamps.</i> )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Explain any yes answers in the space below and attach any additional sheets or relevant documents as needed:** \_\_\_\_\_

Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_



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Purchaser Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Purchaser Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

The updated regulations will publish the contents of the residential property condition disclosure form bringing the Commission into compliance with statute.

Document No. 5252  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**STATE BOARD OF SOCIAL WORK EXAMINERS**  
CHAPTER 110

Statutory Authority: 1976 Code Sections 40-1-70 and 40-63-70

110-1. Continuing Education Requirements.

110-20. Principles of Professional Ethics.

110-30. The Practice of Masters Social Work in a Supervised Clinical or Advanced Practice Setting. (New)

**Synopsis:**

The Board of Social Work Examiners proposes to add to, amend, and/or repeal its regulations in Chapter 110 of the Code of Regulations.

The Notice of Drafting was published in the *State Register* on June 23, 2023.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

ARTICLE 1  
CONTINUING EDUCATION

110-1. Continuing Education Requirements.

A. The Board recognizes that social work is a practice of a profession which must conform to the public’s expectation of professional competency. It further recognizes that structured programs of continuing education will provide licensees with opportunities for maintaining and improving competency as well as the satisfaction of new professional development.

B. As a pre-requisite for biennial renewal of the practitioner’s license, the licensee must complete a minimum of 40 contact hours of accepted professional continuing education per renewal period. This requirement becomes effective during the one-year period following the January 1, 1990, license renewal date, and during each year thereafter.

C. The general guidelines for completing forty (40) contact hours of instruction are:

(1) Accepted instruction will be those courses, conferences, seminars, etc., as approved by the Board pursuant to subsection D below.

(2) Only student class hours or the equivalent will be counted as credit.

(3) As a lecturer or discussion leader for materials directly related to the profession of social work, you may receive two hours per hour of presentation time to account for presentation and development of materials. Licensees may not receive credit for teaching the same course more than once per renewal period.

(4) Except in unusual circumstances, credits will not be given for repeating an instructional course.

D. Approval for continuing education credit:

(1) Approval for continuing education credit shall be provided by persons designated by the Board upon guidelines and standards established by the Board pursuant to these Regulations.

(2) Application for continuing education credit approval shall be in the manner and form designated by the Board.

(3) Application for approval shall be processed at times, and in the manner, designated by the Board up to the date of submission of the continuing education report. The risk of disapproval shall be borne by the sponsor or applicant for continuing education credit.

#### 110-20. Principles of Professional Ethics.

1. The social worker shall not exploit relationships with clients for personal or business advantages, other than the proper, reasonable and agreed upon compensation for his services to the client.

2. The social worker shall not solicit the clients of his employing agency for private practice.

3. The social worker will inform clients of any possible or apparent conflict of interest and shall terminate service to clients, and professional relationships with them, when such service and relationships are no longer required or in which a conflict of interest does arise, in such a manner which does not endanger the client's life.

4. A social worker shall not engage in any sexual act with a client or with a person who has been a client to whom services were provided within the past three years.

5. A social worker shall not exploit his professional relationships with clients (or former clients), supervisor, students, employees, or research participants, sexually or otherwise. A social worker does not engage in sexual harassment. Sexual harassment is defined as deliberate or repeated comments, gestures, or physical contacts of a sexual nature that are unwanted by the recipient.

6. The client/social worker relationship shall be presumed to continue to exist for a period of six months after the last provision of services except where circumstances such as, but not limited to, selection of a new therapist shows otherwise.

7. A social worker will give precedence to his professional responsibility over his financial interests.

8. A social worker shall not commit fraud and shall not represent that he performed services which he did not perform.

9. A social worker will not divide a fee or accept or give anything of value for receiving or making a referral.

10. A social worker should provide clients with accurate and complete information regarding the extent and nature of the services available to them.

11. A social worker shall not participate in or condone fraud or any other misrepresentation. A social worker shall not misrepresent professional qualifications, education, experience, affiliations, or services performed.

12. In connection with his work as a social worker, a social worker shall not practice, condone, facilitate or collaborate with any form of discrimination on the basis of race, color, sex, sexual orientation, age, religion, national origin, marital status, political belief, mental or physical handicap, or any other preference or personal characteristic, condition or status.

13. A social worker shall not repeatedly fail to keep scheduled appointments.

14. A social worker who anticipates the termination or interruption of service to clients shall notify such clients promptly and seek the transfer, referral, or continuation of service in relation to the clients' needs and preferences.

15. A social worker shall respect the privacy of clients and hold in confidence all information obtained in the course of professional service except for compelling reasons. Compelling reasons shall include, but are not limited to:

- a. Consultation with another professional on behalf of the client;
- b. Duty to warn;
- c. Child abuse and sexual molestation;
- d. Statutory requirements.

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16. The social worker shall obtain informed consent of clients before taping, recording, or permitting third party observation of their activities.

17. The social worker shall report to the appropriate authorities any incident, of which he has personal knowledge, of unethical social practice by any individual or organization.

110-30. The Practice of Masters Social Work in a Supervised Clinical or Advanced Practice Setting.

Per S.C. Code Section 40-63-20(26), a Licensed Master Social Worker (LMSW) may engage in supervised clinical or advanced practice in social, medical, or governmental agencies.

A. Definitions:

(1) Governmental Agency is defined as an organization or entity established by federal, state or local government.

(2) Medical Agency is defined as an organization, entity, or practice that provides health care, including mental health services, to the public and to the community, including but not limited to hospitals, clinics, doctor's offices and hospice.

(3) Social Agency is defined as an organization, entity or practice that may or may not be funded all or in part by public funding, donations, grants or the like, that provides health, welfare, rehabilitative or other social services to the public and to the community and may bill a client or a third party for the provision of those services. A social agency may also provide these services without regard to the client's ability to pay.

B. A LMSW can provide clinical or advanced practice social work services in any of the above-defined practice settings if under the supervision of an appropriately-credentialed professional employed by the agency where the LMSW is practicing. The LMSW does not need to directly report to the supervisor, but the supervisor must be part of the supervision chain, examples include treatment team meetings and staffings. An appropriately-credentialed professional must maintain an active and unencumbered South Carolina license as one of the following:

- (1) A physician;
- (2) An independent social worker (LISW);
- (3) A psychologist;
- (4) A psychiatrist;
- (5) A professional counselor (LPC);
- (6) A marriage and family therapist (LMFT); or
- (7) A licensed addiction counselor (LAC).

C. The supervisor is responsible for the nature and quality of the services provided to the client; and if the client is billed for those services, the supervisor bills the client or a third party for the services provided.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

The updated regulation will clarify continuing education credit granted for lecturing or serving as a discussion leader and will add a regulation addressing the practice of Masters Social Work in a supervised clinical setting or advanced practice setting.

Document No. 5237  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BOARD OF EXAMINERS IN SPEECH/LANGUAGE PATHOLOGY AND AUDIOLOGY**  
 CHAPTER 115

Statutory Authority: 1976 Code Sections 40-1-70 and 40-67-70

- 115-2. Speech-Language Pathology Assistants.
- 115-4. Audiology License – Hearing Aid Dispensing.
- 115-6. Continuing Education.
- 115-7. Code of Ethics.

**Synopsis:**

The South Carolina Board of Examiners in Speech-Language Pathology and Audiology proposes to: amend R.115-2, R.115-4, R.115-6 and R.115-7.

The Notice of Drafting was published in the *State Register* on June 23, 2023.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

115-2. Speech-Language Pathology Assistants.

(A) To be licensed as a Speech-Language Pathology Assistant an applicant must:

- (1) submit an application on forms approved by the board;
- (2) submit an application fee as prescribed by the board;
- (3) present evidence of a bachelor’s degree in Speech-Language Pathology from a regionally accredited institution; and
- (4) present evidence of a supervised clinical experience that consists of 100 clock hours of supervised clinical fieldwork with direct client contact/clinical practicum that meets the requirements in (C).

(B) A bachelor’s degree in Speech-Language Pathology from a regionally accredited institution must include as a minimum the following core curriculum of 36 semester hours:

(1)	Basic Area	
	Anatomy, physiology, mechanics, and function of the ear and vocal mechanism.	
	Semantics	
	Speech and Voice Science	
	Psychology of Speech	
	Introduction to Phonetics	
(2)	Speech-Language Pathology Courses	(12 Semester Hours)
	Stuttering	
	Articulation	

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	Voice Disorders	
	Cleft Palate	
	Aphasia	
	Cerebral Palsy	
	Speech-Language Disorders	
	Neurogenics	
(3)	Audiology	(3 Semester Hours)
	Testing of Hearing	
	Introduction to Audiology	
	Auditory Training	
	Speechreading	
	Speech for the Deaf or Hard of Hearing	
(4)	Psychology	(6 Semester Hours)
	Human Growth and Development	
	Psychology of Adjustment or	
	Abnormal Psychology	
(5)	Basic Course in Public Speaking	(3 Semester Hours)

### (C) Supervised Clinical Experience.

(1) Observation hours cannot be used to satisfy the required 100 hours of clinical fieldwork.

(2) Hours must be completed before the speech-language pathology assistant license can be issued by the Board.

(3) The supervised clinical experience may be obtained as follows:

(a) as part of an academic program that is acceptable to the Board; or

(b) an on-the-job training/work program completed in another state in accordance with that state's laws;

or

(c) completion within a four (4) month period of a Board-approved plan to fulfill the 100 clinical clock hours under the supervision of a South Carolina licensed speech-language pathologist subject to the following:

(i) The plan to obtain the 100 clinical clock hours must be on a Board-approved form signed by the applicant and the South Carolina licensed speech-language pathologist providing the supervision; and

(ii) The plan must be submitted with a completed application for speech-language pathology assistant licensure that includes all required documentation; and

(iii) The plan must be approved by the Board before the applicant begins the clinical clock hours; and

(iv) If the plan is not completed within the four (4) month period, the applicant must submit a new plan to be approved by the Board.

(4) Applicant may submit an ASHA Speech-Language Pathology Assistant Certification as evidence of the 100 clinical clock hours obtained under (3)(a) or (3)(b).

(5) Family members or individuals related to an applicant may not serve as clinical supervisors.

### (D) General Guidelines.

(1) No speech-language pathology assistant may begin working in direct contact with clients/patients without the board's written approval of the supervisory agreement and on the job training plan.

(2) Only a speech-language pathologist with an active license in good standing and a minimum of three years of work experience may supervise speech-language pathology assistants.

(3) A speech-language pathologist shall supervise no more than two full-time or three part-time speech-language pathology assistants, not to exceed more than three speech-language pathology assistants whether part-time or full-time. Full time is defined as a minimum of 30 work hours per week.

(4) If, for any reason, there is a change in supervising speech-language pathologist, it is the responsibility of the supervising speech-language pathologist to notify the board in writing within seven (7) working days that the supervisory agreement has been discontinued.

(5) The assistant's license shall become void when the authorized supervisor is no longer available for supervision. The license will be reactivated upon receipt and approval by the board of a new supervisory agreement and the change in supervising speech-language pathologist fee specified in Reg. 10-41(E).

(6) At the time of license renewal, supervising speech-language pathologists are to list the names of all those speech-language pathology assistants they are supervising.

(7) A speech-language pathology assistant may work part-time for more than one supervising speech-language pathologist provided that the board has approved supervisory agreements for each supervising speech-language pathologist.

(8) A licensed speech-language pathologist who supervises any speech-language pathology assistant must provide each speech-language pathology assistant with on the job training and must maintain responsibility for all services performed or omitted by such speech-language pathology assistant(s).

**(E) On-the-Job Training (OJT).**

At a minimum, on-the-job training (OJT) must include:

(1) Step-by-step instruction of each and every service or task the speech-language pathology assistant is to perform;

(2) Continuous visual observation by the supervising speech-language pathologist of the speech-language pathology assistant's performance of each service or task until the supervising speech-language pathologist establishes the speech-language pathology assistant's competence.

(3) The supervising speech-language pathologist must maintain a written record of each service or task indicating the activity, date, time, and location of the training demonstration and observations. This record must be signed by both the supervising speech-language pathologist and the speech-language pathology assistant and a copy must be provided to the speech-language pathology assistant. The supervising speech-language pathologist and the speech-language pathology assistant must maintain such records for a period of four (4) years and such records must be made available to the director or the designee upon request.

**(F) Supervision - General.**

Supervising speech-language pathologists are responsible for all the clinical services provided or omitted by the speech-language pathology assistant(s). When speech-language pathology assistants provide direct services, the supervising speech-language pathologist is responsible for:

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(1) Informing, in writing, all the clients (or their legal guardians), referring agencies, and third-party payers.

(2) It is the supervisor's responsibility to ensure that the assistant is clearly identified at all times as an assistant by means of a name tag or similar identification.

(3) At no time may a speech-language pathology assistant perform tasks when the supervising speech-language pathologist cannot be reached by personal contact, phone, e-mail, or other immediate or electronic means.

(4) The supervisor must make provisions, in writing, for emergency situations including designation of another licensed speech-language pathologist who has agreed to be available on an as needed basis to provide supervision and consultation to the assistant when the supervisor is not available.

(5) If for any reason (i.e., maternity leave, illness, change of job) a supervisor is not able to provide the level of supervision stipulated, the assistant may not perform client contact tasks.

### (G) Direct Supervision.

Following initial OJT, direct supervision of each speech-language pathology assistant must consist of a minimum of one of every seven therapy sessions per patient of direct, visual supervision of client contact to include a sampling of each assigned service or task.

(1) This direct supervision must be on-site, in person, and documented in writing.

(2) This documentation must be maintained by the supervising speech-language pathologist for a period of four years and must be made available to the director or the designee upon request.

### (H) Indirect Supervision.

In addition to direct supervision, indirect supervision is required a minimum of 5% (e.g., 2 hours per 40 hour work week) and must include review of written records and may include demonstrations, review and evaluation of audio- or video- taped sessions, and/or supervisory conferences.

### (I) Quarterly Reviews.

In addition to direct and indirect supervision, the supervising speech-language pathologist must conduct quarterly performance reviews of each speech-language pathology assistant's performance of each assigned service or task. Such quarterly reviews must document, on a form approved by the board, direct observation of each task or service assigned to the speech-language pathology assistant. These reviews must be:

(1) Signed by both the supervising speech-language pathologist and the speech-language pathology assistant;

(2) Maintained by the supervising speech-language pathologist for a period of four (4) years;

(3) Made available to the director or the designee upon request for an audit that the Board may conduct.

### (J) Scope of Practice.

The supervising speech-language pathologist accepts full and complete responsibility for all services and tasks performed or omitted by the speech-language pathology assistant. Provided that education, training, supervision

and documentation are consistent with that defined in this chapter, the following tasks may be designated to the speech-language pathology assistant:

- (1) Conduct speech-language or hearing screenings (without interpretation) following specified screening protocols developed by the supervising speech-language pathologist.
- (2) Provide direct treatment assistance to patients/clients identified by the supervising speech-language pathologist.
- (3) Follow documented treatment plans or protocols developed by the supervising speech-language pathologist.
- (4) Document patient/client progress toward meeting established objectives as stated in the treatment plan.
- (5) Assist the supervising speech-language pathologist during assessment of patients/clients.
- (6) Assist with tallying patient/client responses, prepare therapy materials, schedule activities, prepare charts and assist with other clerical tasks as directed by the supervising speech-language pathologist.
- (7) Perform checks and maintenance of equipment on a regular basis, and verified calibration at least annually on audiometric equipment.
- (8) Assist the supervising speech-language pathologist in research projects, in-service training and public relations programs.
- (9) Sign treatment notes which must be reviewed and co-signed by the supervising speech-language pathologist.
- (10) Discuss with the client, the guardian or family members specifically observed behaviors that have occurred during treatment when such behaviors are supported by documented objective data.

(K) Prohibited Activities.

The speech-language pathology assistant must not:

- (1) Perform diagnostic tests of any kind, formal or informal evaluations, or interpret test results.
- (2) Participate in parent conferences, case conferences, or any interdisciplinary team meetings where diagnostic information is interpreted or treatment plans developed without the presence of the supervising speech-language pathologist or designated licensed speech-language pathologist.
- (3) Provide patient/client or family counseling.
- (4) Write, develop, or modify a patient/client's treatment plan in any way.
- (5) Assist with patients/clients without following a documented treatment plan which has been prepared by a licensed speech-language pathologist and for which the speech-language pathology assistant has not received appropriately documented OJT.
- (6) Sign any formal documents (e.g., treatment plans, reimbursement forms or reports) without the signature of the supervising speech-language pathologist.
- (7) Select patients/clients for services.



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(8) Discharge patients/clients from services.

(9) Disclose clinical or confidential information either orally or in writing to any one not designated in writing by the supervising speech-language pathologist.

(10) Make referrals for additional services.

(11) Provide any interpretation or elaboration of information that is contained in reports written by any licensed speech-language pathologist.

(12) Represent oneself to be a speech-language pathologist.

(13) Make advertisement or public announcement of services independent of the supervising speech-language pathologist.

(14) Participate in feeding or swallowing activities as set forth in the ASHA Speech-Language Pathology Assistant Scope of Practice.

(15) Treat a person who is medically fragile as defined by the ASHA Speech-Language Pathology Assistant Scope of Practice.

### 115-4. Audiology License - Hearing Aid Dispensing.

(A) An audiologist may determine through a comprehensive hearing assessment, inquiry, actual observation, or review of any other available information that a prospective hearing aid user has a condition of the ear or auditory system that would benefit from medical evaluation or intervention. An audiologist who fits and/or sells hearing aids must advise a prospective hearing aid user, or parent or guardian, if the prospective user is not 18 years old or older, that the best health interest would be served if there was a medical evaluation by a licensed physician (preferably a physician who specializes in diseases of the ear) before purchasing a hearing aid. The prospective user may waive the medical evaluation by signing a statement which indicates that the prospective user has been informed of the best health interest and does not wish to have a medical evaluation before purchasing a hearing aid.

(B) An audiologist must have a record of a comprehensive hearing assessment performed within the previous six months before fitting or selling a hearing aid to any person. This restriction does not apply to replacing a lost or damaged hearing aid that has a replacement warranty or insurance.

(C) If no waiver of medical evaluation has been signed by the prospective user, or if the prospective user is not 18 years old or older, by his or her parent or guardian, a written statement must be presented to the audiologist, signed by a licensed physician, stating that the patient's hearing loss has been medically evaluated within the previous six months and that the patient may be considered a candidate for a hearing aid.

(D) An audiologist who fits and sells hearing aids must provide in writing to each purchaser at the time of purchase a purchase agreement which clearly states all warranty terms and warranty periods, return privileges, refund information, payment schedule, hearing aid mode, and manufacturer, serial number, date of sale, the audiologist's license number, signatures of purchaser and seller. In the case of a reconditioned hearing aid, a statement that the hearing aid being purchased is reconditioned. If the hearing aid is being fit through a state or federal program and the prospective user is not making a purchase then no purchase agreement is required.

(E) All audiometers used by an audiologist must be calibrated at least annually. Records of such calibration must be maintained by the audiologist for a period of four years, and must be made available to the Director or the designee upon request.

115-6. Continuing Education.

(A) Courses used to meet the continuing education requirement must meet at least one of the following conditions:

(1) Courses offered by an American Speech-Language Hearing Association (ASHA) or American Academy of Audiology (AAA) Continuing Education Sponsor.

(2) Courses offered by one of the following organizations: South Carolina Academy of Audiology, South Carolina Speech-Language-Hearing Association, National Institute of Hearing Instruments Studies (NIHIS), Academy of Rehabilitative Audiology, American Auditory Society, Academy of Dispensing Audiology, National Black Association for Speech-Language and Hearing (NBASLH) or other organization approved by the board.

(3) Graduate level courses offered by a regionally accredited college or university within scope of practice (1 semester hour equals 15 hours for 1.5 CEUs).

(4) Courses offered by a state or federal agency provided the courses are within scope of practice.

(B) At least one-half of the continuing education requirement must pertain to clinical practice in the area of licensure.

(C) Not more than two (2) hours of the continuing education requirement may be met by independent study. All independent study must receive prior approval by the board sixty (60) days prior to implementation. Independent study is developing a plan encompassing a variety of activities, such as reading journal articles, observing a master clinician, or reviewing case files. The study shall include the licensee writing a critical review stating how the licensee will incorporate the newly acquired skills and knowledge into practice.

(D) Continuing education requirements may be met by online or electronic courses.

(E) Instructors may receive continuing education credit, equivalent to that received by participants, for preparing and teaching courses, including online and electronic courses, within the scope of practice, subject to once per course.

(F) Submission of false or misleading continuing education information is grounds for immediate revocation of the license to practice and such other disciplinary actions as the board deems appropriate.

(G) Required documentation and audit process:

(1) each licensee shall attest to completion of the required continuing education at the time of license renewal;

(2) each licensee shall maintain records of continuing education hours earned for a period of four (4) years, and such records must be made available to the director or the designee upon request.

(3) Upon audit, the licensee must report the course date, the sponsoring organization, the location, the activity or title of the course, and the number of continuing education hours claimed, including documentation of attendance or evidence of completion in addition to any other information required by the Board.

(4) Failure to comply with the Board's audit or demonstrate compliance with continuing education hour requirements shall be deemed a violation of the Practice Act and will result in disciplinary action.

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(5) If upon audit, the Board finds that any of the claimed continuing education hours completed by the licensee do not meet the requirements as set forth in this regulation, the licensee will be allowed a sixty (60) day period to remedy the deficiencies identified by the Board. A license will be deemed lapsed if the licensee fails to remedy the deficiencies within the sixty (60) day period.

115-7. Code of Ethics.

**PRINCIPLE 1:** Individuals shall provide professional services with honesty and compassion, and shall respect the dignity, worth and rights of those served.

**Rule 1a:** Individuals shall not limit the delivery of professional services on any basis that is unjustifiable or irrelevant to the need for the potential benefit from such services.

**Rule 1b:** Individuals shall not discriminate in the provision of services to individuals on the basis of gender, race, religion, national origin, sexual orientation, or general health.

**Rule 1c:** Individuals shall not engage in sexual activity with a patient or client or with a person who has been a patient or client to whom services were provided within the past two (2) years.

**Rule 1d:** Individuals shall not engage in any form of harassment, power abuse, or sexual harassment.

**PRINCIPLE 2:** Individuals shall maintain high standards of professional competence in rendering services, providing only those professional services for which they are qualified by education and experience.

**Rule 2a:** Individuals shall use available resources including referrals to other specialists, collaborating with members of one's own profession and/or members of other professions, and shall not accept benefits or items of personal value for receiving or making referral.

**Rule 2b:** Individuals shall exercise all reasonable precautions to avoid injury to persons in the delivery of professional services.

**Rule 2c:** Individuals shall not provide services except in a professional relationship.

**Rule 2d:** Individuals shall provide appropriate supervision and assume full responsibility for services delegated to supportive personnel. Individuals shall not delegate any service requiring professional competence to unqualified persons.

**Rule 2e:** Individuals shall not permit personnel to engage in any practice that is a violation of the Code of Ethics.

**Rule 2f:** Individuals shall maintain professional competence, including participation in continuing education.

**Rule 2g:** Individuals shall use independent and evidence-based clinical judgment, keeping paramount the best interest of those being served.

**Rule 2h:** Individuals in administrative or supervisory roles shall not require or permit their professional staff to provide services or conduct clinical activities that compromise the staff member's independent and objective professional judgment.

**PRINCIPLE 3:** Individuals shall maintain the confidentiality of the information and records of those receiving services.

Rule 3a: Individuals shall not reveal to unauthorized persons any professional or personal information obtained from the person served professionally, unless required by law.

PRINCIPLE 4: Individuals shall honor their responsibility to the public by promoting public understanding of the profession, by supporting the development of services designed to fulfill the unmet needs of the public, and by providing accurate information in all communication involving any aspect of the professions.

Rule 4a: Individuals shall not misrepresent their credentials, competence, education, training, or experience.

Rule 4b: Individuals shall not participate in professional activities that constitute a conflict of interest.

Rule 4c: Individuals shall not misrepresent diagnostic information, services rendered, or products dispensed or engage in any scheme or artifice to defraud in connection with obtaining payment or reimbursement for such services or products.

Rule 4d: Individuals' statements to the public shall provide accurate information about the nature and management of communication disorders, about the professions, and about professional services.

Rule 4e: Individuals' statements to the public - advertising, announcing, and marketing their professional services, reporting research results, and promoting products - shall adhere to prevailing professional standards and shall not contain misrepresentations.

PRINCIPLE 5: Individuals shall provide accurate information about the nature and management of communication disorders and about the services and products offered.

Rule 5a: Individuals shall provide persons served with the information a reasonable person would want to know about the nature and possible effects of services rendered, or products provided.

Rule 5b: Individuals may make a statement of prognosis, but shall not guarantee results, mislead, or misinform persons served.

Rule 5c: Individuals shall not carry out teaching or research activities in a manner that constitutes an invasion of privacy, or that fails to inform persons fully about the nature and possible effects of these activities, affording all persons informed free choice of participation.

Rule 5d: Individuals shall maintain documentation of professional services rendered.

PRINCIPLE 6: Individuals shall honor their responsibilities to the professions and their relationships with colleagues, students, and members of allied professions, maintain harmonious interprofessional and intra professional relationships and adopt the professions' self-imposed standards.

Rule 6a: Individuals shall prohibit anyone under their supervision from engaging in any practice that violates the Code of Ethics.

Rule 6b: Individuals shall not engage in dishonesty, fraud, deceit misrepresentation, or any form of conduct that adversely reflects on the professions or on the individual's fitness to serve persons professionally.

Rule 6c: Individuals shall assign credit only to those who have contributed to a publication, presentation or product. Credit shall be assigned in proportion to the contribution and only with the contributors consent.

Rule 6d: Individuals' statements to colleagues about professional services, research results, and products shall adhere to prevailing professional standards and shall contain no misrepresentations.

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Rule 6e: Individuals shall not discriminate in their relationships with colleagues, students and members of the allied professions on the basis of race or ethnicity, gender, age, religion, national origin, sexual orientation or disability.

Rule 6f: Individuals who have reason to believe that the Code of Ethics has been violated shall inform the board.

Rule 6g: Individuals shall cooperate fully with the board in its investigation and adjudication of matters related to the Code of Ethics.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

The updated regulation will correct scribes' errors and will clarify existing language by adding substantive language in certain sections, and restructuring the regulation by using a list format rather than a paragraph format in other sections. The regulation will provide additional instruction regarding compliance with continuing education audits. Finally, the regulation will add sections to the code of ethics regarding the prohibition on harassment, collaborating with other professionals, relying upon independent and evidence-based judgment, and the prohibition on a supervisor's requiring or permitting a professional to provide services or conduct clinical activities that compromise their objective professional judgment.

Document No. 5190  
**DEPARTMENT OF MENTAL HEALTH**  
CHAPTER 87

Statutory Authority: 1976 Code Sections 44-9-100, 44-11-70, and 56-21-70

87-2. Parking Regulations.

### **Synopsis:**

The Department of Mental Health proposes to update its Parking Regulations found in Regulation 87-2 in order to update the bond penalties and remove superfluous offenses. The updated penalties are based on a survey of the parking regulations and penalty schedules of other large state agencies and municipalities and reflect the prevailing amounts for such penalties.

The Notice of Drafting was published in the *State Register* on December 23, 2022.

### **Instructions:**

Print the regulation as shown below. All other items remain unchanged.

### **Text:**

87-2. Parking Regulations.

A. The South Carolina Mental Health Commission hereby establishes the following violations and bonds related to vehicular parking at the Department of Mental Health facilities.

(1)	Parking improperly		\$ 7.00
(2)	Parking at fire plug	up to	\$ 20.00
(3)	Double parking	up to	\$ 20.00
(4)	Parking in no-parking area	up to	\$ 20.00
(5)	Parking in reserved space	up to	\$ 20.00
(6)	Blocking (i.e., driveway, loading zone, sidewalk)	up to	\$ 20.00
(7)	Parking in loading zone	up to	\$ 20.00
(8)	Employees parking w/o ID decals		\$ 7.00
(9)	Parking in designated accessible space	up to	\$ 100.00

B. Anyone receiving a summons for any of the violations listed above may post bond in the amount stated opposite the violation with the Department of Mental Health Finance Office or the cashier’s office at the facility concerned.

**Fiscal Impact Statement:**

There will be no additional costs incurred by the State or any of its political subdivisions for the promulgation of this regulation.

**Statement of Rationale:**

Regulation 87-2 provides for violations and penalties for common parking violations. The Department proposes to update the list of offenses and the penalties to be assessed in order to bring them in line with those of other large institutions throughout the state.

Document No. 5221  
**DEPARTMENT OF MOTOR VEHICLES**  
 CHAPTER 90  
 Statutory Authority: 1976 Code Sections 56-1-5, et seq.

- 90-500. Establishing an Account. (New)
- 90-501. Department Invoicing Procedures. (New)
- 90-502. Delinquent Accounts. (New)
- 90-503. Closing Accounts. (New)

**Synopsis:**

2003 Act No. 51, §3 created the South Carolina Department of Motor Vehicles (SCDMV) and transferred all functions, powers, duties, responsibilities, and authority statutorily exercised by the Motor Vehicle Division and the Motor Carrier Services unit with the South Carolina Department of Public Safety (SCDPS) to the SCDMV. At the time of the split of the SCDMV from the SCDPS, the regulations regarding the two agencies were not divided within the South Carolina Code of Regulations. Therefore, SCDMV proposes to promulgate regulations that are still maintained within the South Carolina Code of Regulations Chapter pertaining to SCDPS that apply to SCDMV in true function. Specifically, this promulgation pertains to regulations currently contained at S.C. Reg. 38-250 through 38-253. The SCDMV proposes to promulgate similarly worded regulations in the SCDMV Chapter of the South Carolina Code of Regulations with some amendments to keep with current SCDMV practice for billing accounts.

The Notice of Drafting was published in the *State Register* on July 28, 2023.

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### Section-by-Section Discussion:

Create a new Article 5 to Chapter 90 of the South Carolina Code of Regulations titled “Billing Accounts.”

#### **Instructions:**

Print the regulation as shown below. All other items remain unchanged.

#### **Text:**

### ARTICLE 5 BILLING ACCOUNTS

#### 90-500. Establishing a Billing Account.

A. Eligible customers must request in writing to establish a billing account. At the Department’s discretion, eligible customers are those who represent businesses and can provide the business’s Federal ID Number or individuals who hold professional licenses with a need to establish a billing account with the Department. Private individuals in their capacity as private individuals are not authorized to establish billing accounts with the Department.

B. Customers must furnish the following information:

- (1) Mailing address for billing purposes.
- (2) Contact person, contact number, and email address.
- (3) Companies must provide their Federal I. D. number.

C. The Customer must remit with request a security deposit. The security deposit shall be \$250 or the average monthly rate of cost of records sought by the Customer during the one year period occurring just prior to applying for the billing account, whichever amount is greater. The money remitted is a security deposit and not an advance payment for services rendered. The Deposit will remain on file with the Department until written notice of cancellation is received from the customer and all invoices have been paid.

D. After review and approval, an account number will be assigned to the Customer to use when requesting information.

E. Approval for a billing account will be in the sole discretion of the Department.

#### 90-501. Department Invoicing Procedures.

A. Each request for information will be charged at the normal and typical rate, if a rate is not already set in statute, for the document or information requested.

B. Invoices will be prepared monthly for billing accounts.

C. Invoices must be paid within thirty (30) days of the date the invoice was generated for the account to remain active and in good standing. If an invoice is not paid within thirty (30) days of generation of the invoice, the account will become delinquent and subject to closure.

#### 90-502. Delinquent Billing Accounts.

A. If payment is not received within thirty (30) days of generation of the invoice, the account may be suspended or closed, and the security deposit may be applied to all outstanding invoices.

B. Should any funds from the security deposit remain after satisfaction of all outstanding invoices, that remaining balance will be refunded to the company or individual.

C. If the security deposit does not satisfy all outstanding invoices, the company or individual will be notified of the remaining balance due to the Department. If the remaining balance due to the Department is not paid within thirty (30) days of generation of the balance due invoice, the Department may proceed with any lawful collection measures.

D. Any company or individual that fails to pay their balance due invoice to the Department within thirty (30) days of generation of the balance due invoice may be denied access to create a billing account with the Department. For purposes of evaluation under this section, immediate family, as defined by Section 56-37-20 shall be considered to be the same person as the applicant for purposes of creating a billing account with the Department.

#### 90-503. Closing Billing Accounts.

A. Customers may terminate a billing account by requesting such closure in writing to the Department of Motor Vehicles, P. O. Box 1029, Blythewood, South Carolina 29016.

B. Upon receipt of the request, the Department will suspend privileges under the account and will determine the amount of any outstanding balance.

C. Any amounts due will be deducted from the security deposit with the remaining balance being returned to the customer. If the security deposit does not cover the remaining balance, the Department shall proceed as outlined in Regulation 90-502(C) and (D), as applicable.

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

The SCDMV does not anticipate any additional cost to the State, its political subdivisions, or the public as a result the proposed promulgation of these regulations.

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

2003 Act No. 51, §3 created the South Carolina Department of Motor Vehicles (SCDMV) and transferred all functions, powers, duties, responsibilities, and authority statutorily exercised by the Motor Vehicle Division and the Motor Carrier Services unit with the South Carolina Department of Public Safety (SCDPS) to the SCDMV. At the time of the split of the SCDMV from the SCDPS, the regulations regarding the two agencies were not divided within the South Carolina Code of Regulations. Therefore, SCDMV proposes to promulgate regulations that are still maintained within the South Carolina Code of Regulations Chapter pertaining to SCDPS that apply to SCDMV in true function. Specifically, this promulgation pertains to regulations currently contained at S.C. Reg. 38-250 through 38-253. The SCDMV proposes to promulgate similarly worded regulations in the SCDMV Chapter of the South Carolina Code of Regulations with some amendments to keep with current SCDMV practice for billing accounts.



Document No. 5228  
**DEPARTMENT OF MOTOR VEHICLES**  
CHAPTER 90  
Statutory Authority: 1976 Code Section 56-9-60

90-400. Self-Insurers. (New)

**Synopsis:**

2003 Act No. 51, §3 created the South Carolina Department of Motor Vehicles (SCDMV) and transferred all functions, powers, duties, responsibilities, and authority statutorily exercised by the Motor Vehicle Division and the Motor Carrier Services unit with the South Carolina Department of Public Safety (SCDPS) to the SCDMV. At the time of the split of the SCDMV from the SCDPS, the regulations regarding the two agencies were not divided within the South Carolina Code of Regulations. Therefore, the SCDMV proposes to promulgate regulations that are still maintained within the South Carolina Code of Regulations Chapter pertaining to SCDPS that apply to SCDMV in true function. Specifically, this promulgation pertains to a regulation currently contained at S.C. Reg. 38-121. The SCDMV proposes to promulgate a similarly worded regulation in the SCDMV Chapter of the South Carolina Code of Regulations with amendments to the regulation to delete unnecessary sections now contained in statute and additions to address functional issues regarding self-insurers.

The Notice of Drafting was published in the *State Register* on July 28, 2023.

Section-by-Section Discussion:

Create a new Article 4 to Chapter 90 of the South Carolina Code of Regulations titled “Self-Insurers.”

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

ARTICLE 4  
SELF-INSURERS

90-400. Self-Insurers.

A. Pursuant to Section 15-78-140, political subdivisions are allowed to procure automobile liability insurance by becoming self-insured. Additionally, pursuant to Section 56-9-30 political subdivisions are exempted from the self-insured requirements contained in Chapter 9 of Title 56. However, pursuant to Section 56-10-10 political subdivisions who wish to be self-insured must still provide proof that adequate security is in place to meet the minimum coverage specified in Section 56-10-20.

B. Political Subdivisions must meet the following requirements to be self-insured with the Department of Motor Vehicles:

(1) Apply annually to be self-insured. The application must be submitted at least thirty (30) days prior to the expiration of the current self-insured period.

(2) Annually provide a recent actuary’s report, not more than six months old from the date of application, of the political subdivisions’s projected automobile liability losses for the upcoming self-insured period.

(3) Annually provide proof that sufficient funds are available and will be maintained to cover the projected

losses listed in the actuary's report.

(4) Annually provide a copy of the political subdivisions's most recent financial statement, which shall be not more than six months old from the date of application.

(5) If an Excess Liability Insurance Policy is in place, the political subdivision must designate the Department of Motor Vehicles as the Certificate holder on the policy.

C. All Other Self-Insured Applicants must meet the following requirements:

(1) Apply annually to be self-insured. The application must be submitted at least thirty (30) days prior to the expiration of the current self-insured period and contain the information required by Section 56-9-60.

(2) Self-Insured funds for any claims account must be segregated in a federally insured savings or checking account or maintained in another federally insured account such as:

(a) Money Market Accounts; or

(b) Certificates of Deposits.

(3) All accounts containing self-insured funds must either be payable to the South Carolina Department of Motor Vehicles or designate the Department as a lienholder. The account, however, shall be in the name of the Self-Insurer and all interest which accrues to the account shall belong to the Self-Insurer. The Department must also be notified when the term has expired for any certificates of deposit containing self-insured funds.

(4) The Department must be provided copies of statements of accounts containing self-insured funds on at least a quarterly basis. Failure to provide the Department with copies of the quarterly statements of accounts for self-insured funds within thirty days of when such statements are due to the Department if grounds for cancellation of self-insured status.

(5) Should the funds in the segregated self-insured account decrease by more than thirty percent in any given certificate year, the self-insurer must deposit additional funds into the segregated self-insured account within thirty days of that decrease to bring the account back at least the seventy percent funding level required for that self-insurance year.

(6) If a self-insured person or company has applied for a renewal of their self-insurance at least thirty (30) days prior to expiration of their current self-insurance certificate issued by the Department, and the Department is unable to complete its review of the application before the self-insured person or company's current self-insurance certificate expires and so long as the delay in reviewing the application is through no fault of the applicant, then the Department may issue a temporary extension of the self-insurance certificate in thirty (30) day increments. In no case may such extensions continue for more than ninety (90) days per application.

**Fiscal Impact Statement:**

The SCDMV does not anticipate any additional cost to the State, its political subdivisions, or the public as a result the proposed promulgation of these regulations.

**Statement of Rationale:**

2003 Act No. 51, §3 created the South Carolina Department of Motor Vehicles (SCDMV) and transferred all functions, powers, duties, responsibilities, and authority statutorily exercised by the Motor Vehicle Division and the Motor Carrier Services unit with the South Carolina Department of Public Safety (SCDPS) to the SCDMV. At the time of the split of the SCDMV from the SCDPS, the regulations regarding the two agencies were not

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divided within the South Carolina Code of Regulations. Therefore, the SCDMV proposes to promulgate regulations that are still maintained within the South Carolina Code of Regulations Chapter pertaining to SCDPS that apply to SCDMV in true function. Specifically, this promulgation pertains to a regulation currently contained at S.C. Reg. 38-121. The SCDMV proposes to promulgate a similarly worded regulation in the SCDMV Chapter of the South Carolina Code of Regulations with amendments to the regulation to delete unnecessary sections now contained in statute and additions to address functional issues regarding self-insurers.

Document No. 5249  
**DEPARTMENT OF NATURAL RESOURCES**  
CHAPTER 123  
Statutory Authority: 1976 Code Sections 50-11-2200 and 50-11-2210

123-204. Additional Regulations Applicable to Specific Properties.

### Synopsis:

The South Carolina Department of Natural Resources is proposing to amend Regulation 123-204 pertaining to use of Wildlife Management Areas, Heritage Preserves, and other lands owned by the Department to modify hours of operation on one property, to establish regulations for use of bicycles on one property, and to establish regulations for a new property.

The Notice of Drafting was published in Volume 47, Issue No. 9 of the South Carolina *State Register* on September 22, 2023.

### Instructions:

123-204. Additional Regulations Applicable to Specific Properties.

FF. Botany Bay Plantation WMA

(7) Delete item 7 and renumber subsequent sections accordingly

Add PP. Tall Pines WMA

(1) Insert new text as indicated

Add QQ. Bundrick Island

(1) Insert new text as indicated

(2) Insert new text as indicated

(3) Insert new text as indicated

(4) Insert new text as indicated

(5) Insert new text as indicated

Unless otherwise indicated, all other items remain intact and unchanged.

### Text:

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.

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(8) No crab or fish pots or traps are allowed in impoundments.

(9) No motorized vehicles, non-motorized vehicles, off road vehicles, or all-terrain vehicles are allowed on Capers Island.

(10) No fishing is allowed from the impoundment tide gate.

(11) Dogs are allowed on Caper's Island subject to the following restrictions:

(a) Dogs are allowed on the southern beaches of Caper's Island.

(b) Dogs are not allowed in the impoundment area.

(c) Dogs are not allowed on the northern beaches of Capers Island between April 1 and August 31. Areas closed to dogs are posted by the Department.

(d) Dogs restrained by a leash or similar device are allowed in the designated area on Price's Inlet.

### 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. Deveaux 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 and leased 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 and the Palmetto Trail pass through portions of the Jocassee Gorges. Use of the Foothills Trail and the Palmetto Trail shall be limited to hiking and primitive camping. Camping is allowed at any point along the trails and within one hundred feet of either side of the trails. Camping along the Foothills Trail and the Palmetto 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 with the exception of portions of Horsepasture and Camp Adger Roads. 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. Motorized, self-propelled, unmanned electric cargo carriers (“deer carts”) may be used for the purposes of hauling cargo and harvested game only.

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(b) Roads open to year-round public access include a section of Horsepasture Road to Jumping Off Rock (from Highway 178 only) and a section of Camp Adger Road.

(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. All terrain vehicles and off-road vehicles may not be operated on Horsepasture Road or Camp Adger Road during the periods January 16 - March 19 and May 11 - September 14 when the main roads are closed.

(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 except that the Foothills Trail and Palmetto Trail are closed to bicycles.

(3) The use of hang gliders, parachutes, or similar devices is not allowed and may be deemed abuse of Department land.

(4) Sassafras Overlook Site. These regulations apply to the portion of Jocassee Gorges designated as the overlook site by the Department.

(a) No camping is allowed on the site.

(b) No fires are allowed on the site.

(c) The hours of operation are one hour before official sunrise to one hour after official sunset, except as permitted by the Department.

(d) No alcohol is allowed on the site.

(e) No motor vehicles are allowed except on public roads and in the designated parking area. Motorized scooters or similar vehicles designed specifically for use by disabled persons may only be used by disabled persons on the site. No ATVs, UTVs or similar vehicles are allowed on the site.

(f) No skateboards, hoverboards or similar devices are allowed on the site.

(g) No exclusive use of the site will be allowed by any party.

(h) No drones may be allowed on the site.

(i) No horses, mules, donkeys or other animals may be allowed on the site except pets as defined below.

(j) No pets will be allowed on the site except for dogs and cats. All pets must be restrained by a leash at all times and may not cause any disruption to other visitors, wildlife or the site. All pet waste must be picked up and removed from the site.

(k) Commercial vending is prohibited on the site.

(l) No bicycles may be ridden on the site, except on roads open to vehicular traffic and in designated parking areas.

(m) Special permits may be issued by the Department to allow activities prohibited herein.

(n) All other laws, regulations, and ordinances that apply to the site are also in effect.

(5) Abner Creek Falls Trail

(a) Human foot traffic only is permitted.

(b) No horses, bicycles, non-motorized conveyances or motor conveyance is permitted, except for motorized scooters or similar vehicles designed specifically for use by disabled persons that may only be used by disabled persons on the site.

(c) No access is allowed from the trail or platform to adjacent areas within 300 feet of the platform.

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).



## 272 FINAL REGULATIONS

(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 October 16 and March 14.

### 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 during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) to foot traffic only.

(3) All terrain vehicles, bicycles, and horses are prohibited.

(4) 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 as listed below.

(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 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) Upland trails will be available during open periods stated above.

(6) The beaches on Cedar and Murphy Islands will be open year round, seven days a week, during daylight hours. No person may enter any area designated as a critical area for wildlife.

(7) Bicycles may be ridden on upland trails year round and on dikes from February 9 - October 31.

(8) Fishing is permitted from the Santee River dock and the Hog Pen impoundment except during scheduled waterfowl 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.

(9) Primitive camping on Cedar and Murphy Islands is restricted to designated areas and will be allowed only between October 16 and March 14. Camping on the mainland portion is restricted to the designated campground. Mainland camping registration is required at the campground self-serve kiosk. Advance registration is required for groups greater than 15 people.

(10) Dogs are allowed on Cedar and Murphy Islands subject to the following restrictions:

(a) Dogs are allowed during participation in scheduled hunts

(b) Dogs are allowed in designated areas at the southern end of Cedar Island and the South Santee side of Murphy Island.

(c) Dogs are prohibited in all other areas of Cedar and Murphy Island between April 1 and August 30.

(d) Areas closed to dogs are posted by the Department.

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. Boating, fishing and wildlife viewing in or upon navigable waters is allowed.

(1) Public visitation is by pre-scheduled educational field trips only. The scheduling of educational field trips is at the discretion of SCDNR.

(2) Primitive camping is allowed by permit only. Requests for permits should be no less than 2 weeks prior to their effective date. Primitive camping is allowed only at Department designated locations along the beach front from October 16 and March 14. Only one permit will be issued for each location at a time. Camping is allowed for a period of not more than 4 consecutive nights per individual permit holder.

(3) No dogs are allowed on beaches, except in the designated public access area.

AA. Victoria Bluff Heritage Preserve.

(1) 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.

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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 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) 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.

(8) Shorebased fishing, shrimping, and crabbing, is allowed only on the front beach and in designated areas only.

(9) The Department reserves the right to close specific areas as needed for management purposes.

(10) Alcoholic beverages are prohibited on the area.

GG. McBee WMA.

- (1) All terrain vehicles are prohibited.

HH. Campbells Crossroads and Angelus Tract.

- (1) All terrain vehicles are prohibited.

II. Pee Dee Station WMA.

- (1) All terrain vehicles are prohibited.

JJ. Daily use cards are required for all users of Hamilton Ridge WMA, Palachucola WMA, Webb WMA, Tillman Sand Ridge Heritage Preserve, Bonneau Ferry WMA, Bear Island WMA, Donnelley WMA, Great Pee Dee River Heritage Preserve, Belfast WMA, Congaree Bluffs Heritage Preserve, Marsh WMA, Woodbury WMA, Worth Mountain WMA, Liberty Hill WMA and Santee Cooper WMA. Cards must be in possession while on the property and completed cards must be returned daily upon leaving the property.

KK. Liberty Hill WMA

- (1) All-terrain vehicles are prohibited.
- (2) The area is closed to public access 1/2 hour after sunset until 1/2 hour before sunrise except for hunts and special events regulated by the Department.

LL. Wateree River HP WMA

- (1) All-terrain vehicles are prohibited.
- (2) The waterfowl impoundments are closed to all public access from November 1 through February 8, except for scheduled hunts.
- (3) The area is closed to public access 1/2 hour after sunset until 1/2 hour before sunrise except for special events regulated by the Department.
- (4) All users, including hunters and anglers must obtain and possess a day use pass upon entering the area and follow instructions on the pass. The completed form must be deposited in the designated container before leaving the area.
- (5) Special events may be permitted by the Department.
- (6) Horseback riding is prohibited except by special permit.

MM. Lewis Ocean Bay HP WMA

- (1) Horseback riding is also allowed during the period January 2 through March 1, subject to the restrictions in Regulation 123-203, Paragraph G, sections (2) through (11).

NN. Turtle Island WMA

- (1) No dogs are allowed, except during participation in scheduled hunts, and when physically restrained by a leash or similar device between Sept 1 and March 31.

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(2) Primitive camping is restricted to designated areas and will be allowed only between October 16 and March 14.

### OO. Pine Island

(1) No dogs are allowed, except when physically restrained by a leash or similar device between Sept 1 and March 31.

### PP. Tall Pines WMA

(1) Bicycles are prohibited except as used by hunters during open season for any species.

### QQ. Bundrick Island

(1) Hours of public access are from sunrise to sunset unless otherwise posted or publicized. Exceptions may occur for SCDNR-approved events, in SCDNR designated camping areas or for SCDNR approved research or other projects.

(2) Bicycles are allowed on designated trails only.

(3) Possession of alcoholic beverages is prohibited.

(4) All terrain vehicles (ATVs) and off-road vehicles are prohibited.

(5) Hunting is prohibited.

### **Fiscal Impact Statement:**

The amendment of Regulations 123-204 is likely to have no fiscal impact to citizens of the state, the Department of Natural Resources, or the State of South Carolina.

### **Statement of Rationale:**

Rationale for the formulation of these regulations is based on over 70 years of experience by SCDNR in managing wildlife populations and establishing public hunting and recreation areas. SCDNR seeks to balance the objectives of resource protection and public use and access. 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 Management Section of the Department of Natural Resources, Room 267, Dennis Building, 1000 Assembly Street, Columbia.

Document No. 5260

## **DEPARTMENT OF NATURAL RESOURCES**

### **CHAPTER 123**

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-210, 50-11-310, 50-11-350, 50-11-390, 50-11-500, 50-11-530, 50-11-2200, and 50-11-2210

123-52. Individual Antlerless Deer Tags, Antlerless Deer Limits for Private Lands in Game Zones 1-4, and Youth Deer Hunting Day.

### **Synopsis:**

The South Carolina Department of Natural Resources is proposing to amend the existing regulations antlerless deer limits for private lands in Game Zone 2. The following is a section-by-section summary of the proposed changes and additions:

The Notice of Drafting was published in Volume 47, Issue No. 10 of the *State Register* on October 27, 2023.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

123-52. Individual Antlerless Deer Tags, Antlerless Deer Limits for Private Lands in Game Zones 1-4, and Youth Deer Hunting Day.

1. Individual Antlerless Deer Tags are valid in Game Zones 2 - 4 beginning September 15 and in Game Zone 1 beginning October 1. Individual Antlerless Deer Tags are not valid on properties enrolled in the Deer Quota Program. Individual Antlerless Deer Tags do not alter the daily (2 per day) or seasonal limit or change the type of weapons that can be used during special weapons seasons. The 2 free bonus Individual Antlerless Deer Tags that are issued to hunters who purchase 4 individual Antlerless Deer Tags are valid only on private land in Game Zones 2, 3 and 4.

2. Antlerless Deer Limits: Game Zone 1 - Three (3) total for all seasons and weapons combined, no more than 2 per day. Game Zones 2, 3 and 4, eight (8) for all seasons and weapons combined, no more than 2 per day. Game Zone season and daily limits do not apply on properties enrolled in the Deer Quota Program.

3. On special mobility impaired and youth deer hunts sanctioned by the Department and during the statewide youth deer hunt day prescribed by the Department, participants may take 2 deer total, either sex. The Statewide Youth Deer Hunt Day on private land and designated Wildlife Management Areas shall be the Saturday immediately following January 1.

4. All antlerless deer must be tagged as prescribed by the Department immediately after harvest and before being moved from the point of kill and the tag must be validated as prescribed by the Department. A valid tag must remain attached until the deer or carcass is quartered or received by a processor.

**Fiscal Impact Statement:**

The amendment of Regulation 123-52 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, local economies should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

**Statement of Rationale:**

Rationale for the formulation of these regulations is based on over 70 years of experience by SCDNR in managing wildlife populations. Management objectives for specific properties are continually evaluated for needed changes. Best available science regarding population status is used to make decisions in order to balance population management objectives with social expectations and hunting opportunity.

## 278 FINAL REGULATIONS

Document No. 5250  
**DEPARTMENT OF NATURAL RESOURCES**  
CHAPTER 123

Statutory Authority: 1976 Code Sections 50-11-525 and 50-11-1090

123-46. Rules and Regulations Governing the Issuance of Deer Depredation Permits.

### **Synopsis:**

The South Carolina Department of Natural Resources is proposing to amend Regulation 123-46 pertaining to Issuance of Deer Depredation Permits as specified in 50-11-1090, SC Code of Laws. The following is a section-by-section discussion of proposed changes.

The Notice of Drafting was published in Volume 47, Issue No. 9 of the South Carolina *State Register* on September 22, 2023.

### **Instructions:**

Strike and insert new text as shown below. Renumber sections appropriately for additions and deletions as shown below.

### **Text:**

123-46. Rules and Regulations Governing the Issuance of Deer Depredation Permits.

1. Any person suffering excessive damage to crops and property caused by deer may apply to the Department for a deer depredation permit as prescribed in Section 50-11-1090, 1976 South Carolina Code of Laws.

2. Applications for deer depredation permits shall be made to the Department in writing signed by the applicant and contain the following information:

a. a concise statement specifically describing damage or destruction being suffered by the applicant;

b. a specific description of the property or crop which is suffering the damage or destruction;

c. if the applicant is not the landowner of the property for which the deer depredation permit application is being made, the applicant, by signing the application, affirms that he has the landowner's permission to execute a deer depredation permit on the specified property;

d. if the applicant does not intend to remove the deer himself, he must give the complete names and Department customer identification numbers or drivers license numbers of the persons whom the applicant has designated to take the deer which are causing damage to the subject property.

3. The Department shall give immediate consideration to applications for deer depredation permits and within seven (7) days of receipt of same shall either issue the permit or deny the application. Immediate notification of the denial may be given orally by the Department.

4. Deer depredation permits will be issued for each specific parcel of property denoting the names of the individuals designated to take deer thereunder and the hours of the day in which deer may be taken.

5. The applicant or landowner shall allow a Department representative to enter the property for which the application is made for the purpose of inspecting the property to determine the necessity or exigency for issuance of the permit.

6. The applicant must report all deer taken as prescribed by the Department within 30 days of expiration of the permit.

7. No deer depredation permit will be issued to any applicant who has been convicted of a game law violation within the year preceding the date of application for said permit. No person convicted of a game law violation within the year preceding the application can be designated to take deer under a deer depredation permit. The applicant shall certify in the application that the applicant and the persons designated to take deer under the permit have not been convicted of a game law violation within the year preceding the application.

8. Any application containing false information therein shall subject the applicant to the penalties as prescribed herein.

9. The penalty for any person violating any provisions of the within regulation shall be as prescribed in Section 50-1-130, 1976 South Carolina Code of Laws. In addition to said penalty any deer depredation permit issued to the person convicted hereunder must be surrendered to the Department immediately and said person would not be eligible for a deer depredation permit within twelve (12) months of said conviction.

**Fiscal Impact Statement:**

The amendment of Regulation 123-46 will result in a more efficient and effective process for applicants to apply for deer depredation permits to reduce crop damage or property damage. There will be no negative fiscal impacts to the public or the Department. Effective delivery of the program can help to minimize financial losses by farmers experiencing crop damage by deer.

**Statement of Rationale:**

Rationale for the formulation of these regulations is based on over 70 years of experience by SCDNR in managing wildlife populations and assisting the public with wildlife conflicts. Management goals are ever changing, requiring periodic amendments to regulations and processes.

Document No. 5259

**DEPARTMENT OF NATURAL RESOURCES**

CHAPTER 123

Statutory Authority: 1976 Code Sections 50-9-640, 50-11-300, 50-11-500, 50-11-510, 50-11-525, 50-11-530, 50-11-540, 50-11-544, 50-11-546, 50-11-580, and 50-11-2200

123-51. Turkey Hunting Rules and Seasons.

**Synopsis:**

The Department of Natural Resources proposes to amend Regulation 123-51 “Turkey Hunting Rules and Seasons.” The subject of the proposed action is to amend the regulations to prescribe seasons, dates, bag limits, and details of hunting and taking of turkeys on Wildlife Management Areas. The following is a summary of the proposed changes and additions:

The Notice of Drafting was published in the *State Register* on October 27, 2023, Volume 47, Issue No. 10.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**



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### 123-51. Turkey Hunting Rules and Seasons.

1. Total limit of 3 turkeys statewide per person for resident hunters and 2 turkeys statewide per person for nonresident hunters, 1 per day, gobblers (male turkeys) only, unless otherwise specified. Total statewide limit includes turkeys harvested on Wildlife Management Areas (WMAs). Small unnamed WMAs in counties indicated are open for turkey hunting. Turkey seasons and bag limits for Wildlife Management Area lands are as follows:

#### A. Game Zone 1

##### 1. Other WMAs

(a) Apr. 1 - April 30

(b) Bag limit 3 for residents and 2 for nonresidents, no more than one may be taken April 1 - 10.

#### B. Game Zone 2

##### 1. Other WMAs

(a) Apr. 1 - April 30

(b) Bag limit 3 for residents and 2 for nonresidents, no more than one may be taken April 1 - 10.

##### 2. Keowee WMA

(a) Apr. 1 - April 30

(b) Bag limit 2, no more than one may be taken April 1 - 10.

(c) Shotguns only -north of Hwy 123 and west of the Keowee Arm of Lake Hartwell and west of Hwy 291. Archery only on other sections.

##### 3. Draper WMA

(a) Apr. 1 - April 30

(b) Bag limit 2, no more than one may be taken April 1 - 10.

(c) Thurs through Sat. only

##### 4. Belfast WMA

(a) Apr. 1 - April 30

(b) Bag limit 1

(c) Thurs through Sat. only

##### 5. Worth Mountain WMA

(a) Apr. 1 - April 30

(b) Bag limit 2, no more than one may be taken April 1 - 10.

(c) Thurs through Sat. only

6. McCalla WMA

(a) April 1 - April 30

(b) Bag Limit 2, no more than one may be taken April 1 - 10.

7. Fants Grove WMA

(a) April 1 - April 30

(b) Bag Limit 2, no more than one may be taken April 1 - 10.

8. Liberty Hill WMA

(a) April 1 - April 30

(b) Bag Limit 2, no more than one may be taken April 1 - 10.

9. Delta South WMA

(a) Apr. 1 - April 30

(b) Hunters by drawing only

10. Forty Acre Rock HP WMA

(a) April 1 - April 30

(b) Bag Limit 2, no more than one may be taken April 1 - 10.

C. Game Zone 3

1. Other WMAs

(a) Apr. 1 - April 30

(b) Bag limit 3 for residents and 2 for nonresidents.

2. Crackerneck WMA

(a) Apr. 1 - April 30

(b) Bag limit 2

(c) Fri. and Sat. only

(d) Sign in and out at the gate required.

(e) Main gate opens at 4:30 am and closes at 1:00 pm.

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### 3. Aiken Gopher Tortoise HP WMA

(a) Apr. 1 - April 30

(b) Bag limit 2

### 4. Francis Marion National Forest

(a) Apr. 1 - April 30

(b) Bag limit 2

(c) Tibwin Special Use Area

(1) Apr. 1 - April 30

(2) Bag limit 2

(3) Special hunts for youth or mobility impaired hunters as published by SCDNR.

### 5. Moultrie

(a) Apr. 1 - April 30

(b) Bag limit 2

(c) Thurs through Sat. only

(d) Bluefield WMA

(1) Apr. 1 - April 30

(2) Bag limit 2

(3) Adult/Youth only

(e) Hall WMA

(1) Apr. 1 - April 30

(2) Bag limit 2

### 6. Santee Cooper WMA

(a) Apr. 1 - April 30

(b) Bag limit 1

(c) Thurs through Sat. only

(d) Youth only

### 7. Webb, Palachucola and Hamilton Ridge WMAs

- (a) Apr. 1 - April 30
- (b) Bag limit 2
- (c) All hunters must pick up and return data cards at kiosk and display hangtags on vehicles.

8. Donnelley WMA

- (a) Apr. 1 - April 30
- (b) Bag limit 1
- (c) Thurs through Sat. only

9. Bonneau Ferry WMA

- (a) Apr. 1 - April 30
- (b) Bag limit 1
- (c) Thurs through Sat. only
- (d) Youth only
- (e) Closed to public access during hunts.

10. Santee Coastal Reserve WMA

- (a) Saturdays only from April 1 - April 30
- (b) Bag limit 1

11. Edisto River WMA

- (a) Apr. 1 - April 30
- (b) Bag limit 2
- (c) Thurs through Sat. only

12. Tillman Sand Ridge Heritage Preserve WMA

- (a) Apr. 1 - April 30
- (b) Bag limit 2
- (c) Thurs through Sat. only

13. Victoria Bluff Heritage Preserve WMA

- (a) Apr. 1 - April 30
- (b) Bag limit 2

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(c) Thurs through Sat. only

### 14. Botany Bay Plantation WMA

(a) Apr. 1 - April 30

(b) Bag limit 1

(c) Youth hunting by draw only.

### 15. Wateree River HP WMA

(a) Apr. 1 - April 30

(b) Bag limit 1

(c) Thurs through Sat. only

## D. Game Zone 4

### 1. Other WMAs

(a) Apr. 1 - April 30

(b) Bag limit 3 for residents and 2 for nonresidents.

### 2. Marsh WMA

(a) Apr. 1 - April 30

(b) Bag limit 2

(c) Thurs through Sat. only

(d) Sign in and out at the kiosk required.

### 3. Sand Hills State Forest WMA

(a) Apr. 1 - April 30

(b) Bag limit 2

### 4. McBee WMA

(a) Apr. 1 - April 30

(b) Bag limit 2

(c) Thurs through Sat. only

### 5. Little Pee Dee Complex WMA

(a) Apr. 1 - April 30

(b) Bag limit 2

(c) Thurs through Sat. only

6. Pee Dee Station Site WMA

(a) Apr. 1 - April 30

(b) Bag limit 2

(c) Thurs through Sat. only

(d) All hunters must sign in and sign out at kiosk.

7. Woodbury WMA

(a) Apr. 1 - April 30

(b) Bag limit 2

(c) Thurs through Sat. only

(d) All hunters must sign in and sign out at kiosk.

8. Great Pee Dee Heritage Preserve WMA

(a) Apr. 1 - April 30

(b) Bag limit 2

(c) Thurs through Sat. only

(d) All hunters must sign in and sign out at kiosk.

9. Longleaf Pine Heritage Preserve WMA

(a) Apr. 1 - April 30

(b) Bag limit 2

(c) Thurs through Sat. only

10. Manchester State Forest WMA

(a) Apr. 1 - April 30

(b) Bag limit 2

11. Hickory Top WMA

(a) Apr. 1 - April 30

(b) Bag limit 2

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### 12. Oak Lea WMA

(a) Apr. 1 - April 30

(b) Bag limit 2

### 13. Santee Dam WMA

(a) Apr. 1 - April 30

(b) Bag limit 2

### 14. Wee Tee WMA

(a) Apr. 1 - April 30

(b) Bag limit 2

### 15. Cartwheel Bay Heritage Preserve WMA

(a) Apr. 1 - April 30

(b) Bag limit 2

(c) Thurs through Sat. only

### 16. Lewis Ocean Bay Heritage Preserve WMA

(a) Apr. 1 - April 30

(b) Bag limit 2

(c) Thurs through Sat. only

### 17. Waccamaw River Heritage Preserve WMA

(a) Apr. 1 - April 30

(b) Bag limit 2

(c) Thurs through Sat. only

### 18. Samworth WMA

(a) Apr. 1 - April 30

(b) Bag limit 1

(c) Youth hunting by draw only.

### 19. Liberty Hill WMA

(a) April 1 - April 30

(b) Bag Limit 2

20. Bobwhite Hills WMA

(a) Apr. 1 - April 30

(b) Bag limit 1

(c) Thurs through Sat. only

E. Statewide Turkey Hunting Regulations and Youth Turkey Hunting Day on WMAs

1. The statewide youth turkey hunting day on designated WMA lands shall be the Saturday immediately preceding April 1

(a) The daily bag limit during the statewide youth turkey hunting day on WMAs is one (1) which counts toward the season limit.

(b) A person less than 18 years of age is considered a youth turkey hunter.

(c) Only includes WMAs designated by the Department.

2. The following regulations apply statewide. No turkey hunting permitted on Turkey Restoration Sites which have not been formally opened by the Department.

(a) During the spring turkey hunting season, only turkey gobblers (male birds) may be taken.

(b) Shotguns, muzzleloader shotguns, or archery equipment are permitted. All other weapons and methods of taking are prohibited including rifles, pistols, buckshot and slugs.

(c) Turkeys may not be hunted with dogs.

(d) Live decoys are prohibited.

(e) A tag issued by the Department must be placed around a harvested bird's leg before the bird is moved from the point of kill and the tag must be validated by the hunter as prescribed by the Department. A valid tag must remain on the carcass until it is processed (cut up).

(f) On all WMA lands, it is prohibited to hunt or stalk wild turkeys while holding or using for hunter concealment any of the following items: a tail fan, a partial or full decoy with a tail fan, or a tail fan mounted to a firearm. Tail fans include those made of real or synthetic feathers or an image or likeness of a tail fan applied to any material.

3. Electronic Harvest Reporting of Turkeys on Private and WMA Lands.

(a) Methods of electronic harvest reporting include telephone, internet, and mobile device application. Applicable telephone numbers and internet addresses are as posted on the Department's website and in the annual Hunting and Fishing Regulations Guide.

(b) Hunters must provide their Department issued Customer Identification Number to access the reporting system and provide the county of kill, whether the property on which the turkey was taken was private or WMA land including the name of the WMA, whether the turkey was an adult gobbler or juvenile (jake), and whether the turkey was taken in the morning or afternoon.



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(c) As part of the reporting process a Department issued confirmation number will be generated. Hunters must document and maintain this confirmation number as prescribed.

### **Fiscal Impact Statement:**

The amendment of Regulation 123-51 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, local economies should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

### **Statement of Rationale:**

Rationale for the formulation of these regulations is based on over 70 years of experience by SCDNR in managing wildlife populations and establishing public hunting and recreation areas. SCDNR seeks to balance the objectives of resource protection and public use and access. 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 Management Section of the Department of Natural Resources, Room 267, Dennis Building, 1000 Assembly Street, Columbia.

Document No. 5251

### **DEPARTMENT OF NATURAL RESOURCES**

#### CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-60, 50-1-200, 50-1-220, 50-9-650, 50-11-10, 50-11-105, 50-11-310, 50-11-315, 50-11-320, 50-11-365, 50-11-390, 50-11-410, 50-11-430, 50-11-500, 50-11-525, 50-11-530, 50-11-580, 50-11-2200, and 50-11-2210

123-40. Wildlife Management Area Regulations.

### **Synopsis:**

The South Carolina Department of Natural Resources is proposing to amend the existing regulations that set seasons, bag limits and methods of hunting and taking of wildlife.

The Notice of Drafting was published in Volume 47, Issue No. 9 of the South Carolina *State Register* on September 22, 2023.

### **Instructions:**

Delete stricken text and insert underlined text as indicated in the Text section below, renumbering subsequent sections as appropriate based on additions or deletions. Unless indicated by strikethrough or underline, all other sections remain intact and unchanged.

### **Text:**

123-40. Wildlife Management Area Regulations.

1.1 The regulations governing hunting including prescribed schedules and seasons, methods of hunting and taking wildlife, and bag limits for Wildlife Management Areas and special restrictions for use of WMA lands are as follows:

#### A. Game Zone 1

1. US Forest Service WMA lands (Sumter National Forest)

(a) Hunting on Sundays will be allowed for all species beginning October 15 and continuing through the last day of January subject to seasons and bag limits as specified below.

- (b) Primitive Weapons Hunts for Deer
  - (i) Oct. 1 - Oct. 10
- (c) Still Gun Hunts for Deer
  - (i) Oct. 11 through Oct. 16; Oct. 31 - Jan. 1
- (d) Archery Hunts for Deer
  - (i) Oct. 17-Oct. 30
- (e) Still Gun Hunts for Bear
  - (i) Game Zone 1 seasons and bag limits apply
- (f) Special Party Dog Hunt for Bear
  - (i) Game Zone 1 seasons and bag limits apply
- (g) Small Game
  - (i) Game Zone 1 seasons and bag limits apply
- (h) Hog Hunts with Dogs
  - (i) Jan. 2 - Jan. 10, Mar. 20 - Mar. 28

2. Other WMAs

- (a) Archery Hunts for Deer
  - (i) Oct. 17 - Oct. 30
- (b) Primitive Weapons for Deer
  - (i) Oct. 1 through Oct. 10
- (c) Still Gun Hunts for Deer
  - (i) Oct. 11 through Oct. 16; Oct. 31 - Jan. 1
- (d) Still Gun Hunts for Bear
  - (i) Game Zone 1 seasons and bag limits apply
- (e) Special Party Dog Hunt for Bear
  - (i) Game Zone 1 seasons and bag limits apply
- (f) Small Game
  - (i) Game Zone 1 seasons and bag limits apply
- (g) Hog Hunts with Dogs
  - (i) Jan. 2 - Jan. 10, Mar. 20 - Mar. 28

3. Glassy Mountain Archery Only Area - Chestnut Ridge Heritage Preserve

- (a) Archery Hunts for Deer.
  - (i) Oct. 1 - Jan. 1
- (b) Small Game
  - (i) Game Zone 1 seasons and bag limits apply

4. Long Creek Tract

- (a) Game Zone 1 seasons and bag limits, except no deer hunting on or after Thanksgiving Day

5. Mill Shoals WMA

- (a) Archery Hunts for Deer
  - (i) Oct. 1 - Jan. 1
- (b) Archery Hunts for Bear
  - (i) Oct. 17 - Oct. 23
- (c) Small Game
  - (i) Game Zone 1 seasons and bag limits apply

B. Game Zone 2

1. US Forest Service WMA lands (Sumter National Forest)

(a) Hunting on Sundays will be allowed for all species beginning October 15 and continuing through the last day of January subject to seasons and bag limits as specified below.

- (b) Archery Hunts for Deer
  - (i) Sept. 15 - Sept. 30
- (c) Primitive Weapons for Deer

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- (i) Oct. 1 through Oct. 10
- (d) Still Gun Hunts for Deer
  - (i) Oct. 11 through Jan. 1
- (e) Small Game
  - (i) Game Zone 2 seasons and bag limits apply except for quail and woodcock within the Indian Creek Quail Focal Area on the Enoree Ranger District of the Sumter National Forest
- (f) Hog Hunts with Dogs
  - (i) Jan. 2 - 10, Mar. 20 - 28
- 2. Other WMAs
  - (a) Archery Hunts for Deer
    - (i) Sept. 15 - Sept. 30
  - (b) Primitive Weapons for Deer
    - (i) Oct. 1 through Oct. 10
  - (c) Still Gun Hunts for Deer
    - (i) Oct. 11 through Jan. 1
  - (d) Small Game
    - (i) Game Zone 2 seasons and bag limits apply
  - (e) Hog Hunts with Dogs
    - (i) Jan. 2 - 10, Mar. 20 - 28
- 3. Keowee WMA
  - (a) Designated as a Quality Deer Management Area. No hunting is allowed in research and teaching areas of Keowee WMA posted with white signs except those special hunts for youth or mobility impaired as conducted by the Department.
  - (b) North of Hwy 123 and west of the Keowee arm of Lake Hartwell, and west of Hwy 291, small game hunting with shotguns only. All other areas are archery only for small game.
  - (c) Archery Hunts for Deer
    - (i) Oct. 15 - Dec. 22
  - (d) Raccoon and Opossum
    - (i) Game Zone 2 seasons and bag limits
  - (e) Other Small Game
    - (i) Game Zone 2 seasons and bag limits apply.
    - (ii) No small game hunting during archery deer hunts except for waterfowl, designated dove field hunting, or raccoon and opossum hunting at night.
- 4. Draper WMA
  - (a) Data cards required for hunter access, except draw dove hunts. Completed data cards must be returned daily before leaving the WMA.
  - (b) Archery Hunts for Deer
    - (i) Sept. 15 - Sept. 30
  - (c) Primitive Weapons for Deer
    - (i) Oct. 1 - Oct. 10
  - (d) Still Gun Hunts for Deer
    - (i) Oct. 11 - Jan. 1
  - (e) Quail Hunts
    - (i) 1<sup>st</sup> Sat. following Thanksgiving, 1<sup>st</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Wed. in Dec., 3<sup>rd</sup> Sat. in Dec., 1<sup>st</sup> and 4<sup>th</sup> Sat. in Jan., 3<sup>rd</sup> Wed. in Jan., 2<sup>nd</sup> Wed. in Feb., 3<sup>rd</sup> Sat. in Feb.
    - (ii) Game Zone 2 bag limit
    - (iii) Shooting hours end 30 minutes prior to official sunset.
  - (f) Rabbit Hunts
    - (i) Wed. and Sat. in Jan. and Feb. except during scheduled quail hunts.
    - (ii) Game Zone 2 bag limit
  - (g) Other Small Game (no fox squirrels)
    - (i) Zone 2 seasons and bag limits apply
- 5. Fant's Grove WMA

- (a) Designated as a Quality Deer Management Area
  - (b) Archery Deer Hunts
    - (i) Oct. 15 - Dec. 22
  - (c) Special Gun Hunts for Deer
    - (i) Hunters selected by drawing
    - (ii) Total 1 deer, either sex.
  - (d) Raccoon and Opossum
    - (i) Game Zone 2 seasons and bag limits
  - (e) Other Small Game
    - (i) Game Zone 2 seasons and bag limits apply
    - (ii) No small game hunting during archery deer hunts except for waterfowl, designated dove field hunting, or raccoon and opossum hunting at night.
    - (iii) Waterfowl may be hunted Wed. and Sat. AM only.
6. Rock Hill Blackjacks HP WMA
- (a) Archery Deer Hunts
    - (i) Sept. 15 - Jan. 1
  - (b) Small Game
    - (i) No small game hunting
7. Belfast WMA
- (a) All terrain vehicles are prohibited. All harvested deer and turkeys must be checked in at the Belfast Check Station. Belfast WMA is open to public access during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) except during special hunts and events regulated by DNR. Hunters may not enter the WMA prior to 5:00 AM on designated hunts. Public visitation is not allowed during scheduled deer and turkey hunts. Data cards required for hunter access. Completed data cards must be returned daily upon leaving Belfast WMA.
  - (b) Hunting on Sundays will be allowed for all species beginning October 15 and continuing through the last day of January subject to seasons and bag limits as specified below.
  - (c) Designated as a Quality Deer Management Area.
  - (d) Archery Hunts for Deer
    - (i) Sept. 15 - Sept. 30
  - (e) Still Gun Hunts for Deer
    - (i) Hunters selected by drawing
  - (f) Small Game (no fox squirrels)
    - (i) Thanksgiving Day - Mar. 1
    - (ii) Game Zone 2 bag limits
8. Broad River Waterfowl Management Area
- (a) Archery Deer Hunts
    - (i) Sept. 15 - Oct. 31
  - (b) Small Game
    - (i) Feb. 8 - Mar. 1
    - (ii) Game Zone 2 bag limits
9. McCalla WMA
- (a) Designated as a Quality Deer Management Area.
  - (b) Deer Hunts
    - (i) Game Zone 2 seasons
  - (c) Small Game
    - (i) Game Zone 2 seasons and bag limits apply
  - (d) Hog Hunts with Dogs
    - (i) Jan. 2 - 10, Mar. 20 - 28
  - (e) Special Hunt Area for Youth and Mobility Impaired Hunters
    - (i) No open season except for hunters selected by drawing
    - (ii) 1 deer per day, either sex
10. Worth Mountain WMA
- (a) Designated as a Quality Deer Management Area

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- (b) Deer Hunts
  - (i) Game Zone 2 seasons
- (c) Small Game
  - (i) Game Zone 2 seasons and bag limits apply.
- 11. Liberty Hill WMA
  - (a) Hunting on Sundays will be allowed for all species beginning October 15 and continuing through the last day of January subject to seasons and bag limits as specified below.
  - (b) Designated as a Quality Deer Management Area.
  - (c) Archery Hunts for Deer
    - (i) Sept. 15 - Sept. 30
  - (d) Primitive Weapons for Deer
    - (i) Oct. 1 - Oct. 10
  - (e) Still Gun Hunts for Deer
    - (i) Oct. 11 - Jan. 1
  - (f) Small Game (no fox squirrels)
    - (i) Zone 2 seasons and bag limits apply.
- 12. Delta North WMA
  - (a) Deer Hunts
    - (i) Game Zone 2 seasons
  - (b) Small Game (no fox squirrels)
    - (i) Game Zone 2 seasons and bag limits apply
- 13. Delta South WMA
  - (a) Archery Hunts for Deer
    - (i) Sept. 15 - Sept. 30
  - (b) Still Gun Hunts for Deer
    - (i) Nov. 1 - Nov. 21, Wednesdays and Saturdays Only.
    - (ii) Special hunts for youth or mobility impaired hunters as published by SCDNR.
  - (c) Small Game (no fox squirrels)
    - (i) Thanksgiving Day - Mar. 1
    - (ii) Game Zone 2 bag limits
- 14. Forty Acre Rock HP WMA
  - (a) Archery Hunts for Deer
    - (i) Sept. 15 - Sept. 30
  - (b) Primitive Weapons for Deer
    - (i) Oct. 1 - Oct. 10
  - (c) Still Gun Hunts for Deer
    - (i) Oct. 11 - Jan. 1
  - (d) Small Game (no fox squirrels)
    - (i) Game Zone 2 seasons and bag limits apply
- 15. Indian Creek Quail Focal Area
  - (a) The area is defined as that area of the Sumter National Forest Enoree Ranger District in Newberry County, bounded on the south by Old Whitmire Highway, private lands, and SC Highway 176; on the east by Brazzelmans Bridge Road, and private lands; on the northeast by the Enoree River; on the north by Wallace Road and private lands; on the west by SC Highway 121 and private lands; and on the southeast by Indian Creek to its intersection with SC Highway 121.
  - (b) Small Game (except quail)
    - (i) Game Zone 2 seasons and bag limits apply
  - (c) Quail Hunts
    - (i) 1<sup>st</sup> Sat. following Thanksgiving, 1<sup>st</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Wed. in Dec., 3<sup>rd</sup> Sat. in Dec., 1<sup>st</sup> and 4<sup>th</sup> Sat. in Jan., 3<sup>rd</sup> Wed. in Jan., 2<sup>nd</sup> Wed. in Feb., 3<sup>rd</sup> Sat. in Feb.
    - (ii) Daily bag limit for quail is 6 quail per person per day
  - (d) Woodcock hunting is permitted only on designated quail hunting days within the statewide woodcock hunting season.

(e) All quail, woodcock, and rabbit hunters must sign in and out at the designated check station.

### C. Game Zone 3

#### 1. Other WMAs

(a) Archery Deer Hunts

(i) Sept. 15 - Sept. 30

(b) Still Gun Hunts for Deer

(i) Oct. 1 - Jan. 1

(c) Small Game

(i) Game Zone 3 seasons and bag limits apply

#### 2. Crackerneck WMA and Ecological Reserve

(a) All individuals must sign in and out at main gate. Designated as a Quality Deer Management Area. Scouting seasons (no weapons), will be Saturdays only during September, March, and May. The gate opens at 6:00am and closes at 8:00pm. On deer hunt days, gates will open as follows: Oct., 4:30am - 8:30pm; Nov. - Dec., 4:30am - 7:30pm. For special hog hunts in Jan. and Feb., gate will be open from 5:30am - 7:00pm. On all raccoon hunts, raccoon hunters must cease hunting by midnight and exit the gate by 1:00am. All reptiles and amphibians are protected. No turtles, snakes, frogs, toads, salamanders etc. can be captured, removed, killed or harassed.

(b) Archery Deer Hunts

(i) 1st Fri. and Sat. in Oct

(c) Primitive Weapons Deer Hunts (no buckshot).

(i) 2nd Fri. and Sat. in Oct.

(d) Still Gun Hunts for Deer

(i) 3rd Fri. in Oct. - Jan. 1, Fri., Sat. and Thanksgiving Day only except closed Dec. 25.

(e) Raccoon and Opossum

(i) 3rd Sat. night in Oct. - Jan. 1, Sat. nights only, except closed Dec. 25, 1st Fri. night in Jan. to last Fri. or Sat. night in Feb., Fri. and Sat. nights only.

(ii) 3 raccoons per party per night

(f) Still Hunts for Hogs

(i) 1st Fri. after Jan. 1 - last Fri. in Feb. Fridays only

(ii) No limit.

(g) Other Small Game (except no open season on bobcats, foxes, otters or fox squirrels).

(i) 3rd Fri. in Oct. - last Fri. or Sat. in Feb. Fri., Sat. and Thanksgiving Day only except closed Dec. 25.

(ii) Game Zone 3 bag limits

#### 3. Aiken Gopher Tortoise Heritage Preserve WMA

(a) Archery Deer Hunts

(i) Sept. 15 - Sept. 30

(b) Still Gun Hunts for Deer

(i) Oct. 1 - Jan. 1.

(c) Small Game (no fox squirrels).

(i) Thanksgiving day - Mar. 1.

(ii) Game Zone 3 bag limits.

#### 4. Ditch Pond Heritage Preserve WMA

(a) Archery Deer Hunts.

(i) Sept. 15 - Jan. 1

(b) Small Game (no fox squirrels).

(i) Thanksgiving Day - Mar. 1

(ii) Game Zone 3 bag limits

#### 5. Henderson Heritage Preserve WMA

(a) Archery Deer Hunts.

(i) Sept. 15 - Jan. 1

(b) No small game hunting allowed

#### 6. Francis Marion National Forest

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(a) Hunting on Sundays will be allowed for all species beginning October 15 and continuing through the last day of January subject to seasons and bag limits as specified below.

(b) All deer must be checked in by one hour after legal sunset.

(c) During deer hunts when dogs are used, buckshot only is permitted. On hunts with dogs, all deer must be checked in by one hour after legal sunset. Individual antlerless deer tags are not valid during dog hunts for deer unless otherwise specified. Tibwin Special Use Area and Fairlawn (in Wambaw) are closed to hunting except for Special hunts. On youth deer hunts, only youths 17 and younger may carry a gun and must be accompanied by an adult 21 years old or older. No fox or coyote hunting with dogs on the Francis Marion.

(d) Hog Hunts with Dogs

(i) 3rd full week in Mar., 3rd full week in May

(e) Still Hog Hunts

(i) First full week in Mar.

(f) Hellhole WMA

(i) Archery Deer Hunts

(1) Sept. 15 - Oct. 10

(ii) Still Gun Hunts for Deer

(1) Oct. 11 - Jan. 1 except during scheduled dog drive hunts

(iii) Deer Hunts with Dogs (shotguns only)

(1) 1st Sat. in Nov., 1st Sat. in Dec.

(a) 2 deer per day, buck only

(iv) Youth Only Deer Hunt with Dogs

(1) 2nd Sat. in Nov.

(2) Requirements and bag limits for youth are the same as the statewide youth deer hunt day except no antlerless deer may be taken.

(v) Small Game (no open season for fox hunting)

(1) Game Zone 3 seasons and bag limits apply.

(2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.

(g) Waterhorn WMA

(i) Archery Deer Hunts

(1) Sept. 15 - Oct. 10

(ii) Muzzleloader Hunts for Deer

(1) Oct. 11 - Oct. 20

(iii) Still Gun Hunts for Deer

(1) Every Friday and Saturday beginning Nov. 1.

(iv) Small Game (no open season for fox hunting)

(1) Game Zone 3 seasons and bag limits apply.

(2) Dogs allowed during small game gun season only. Closed to small game and waterfowl hunting during scheduled deer hunt periods.

(h) Wambaw WMA

(i) Archery Deer Hunts

(1) Sept. 15 - Oct. 10

(ii) Still Gun Hunts for Deer

(1) Oct. 11 - Jan. 1 except during scheduled dog drive hunts west of Hwy 17.

(2) Still gun hunts only East of Hwy 17. No buckshot.

(iii) Deer Hunts with Dogs (shotguns only)

(1) Fri. in Sept. before the last Sat. Northampton dog hunt, Wed. and Thurs. before the 3rd Sat. in Nov. and 2nd Sat. in Oct., first 2 days excluding Sunday after Dec. 25

(a) 2 deer per day, buck only

(2) 2nd Sat. in Dec.

(a) 1 deer per day

(b) All deer must be checked in at designated check stations.

(iv) Youth Only Deer Hunt with Dogs

- (1) 3rd Saturday in November.
- (2) Requirements and bag limits for youth are the same as the statewide youth deer hunt day except no antlerless deer may be taken.
- (v) Seewee Special Use Area
  - (1) Archery Deer Hunts
  - (2) Sept. 15 - Jan. 1
- (vi) Small Game (no open season for fox hunting)
  - (1) Game Zone 3 seasons and bag limits apply.
  - (2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.
- (i) Northampton WMA
  - (i) Archery Deer Hunts
    - (1) Sept. 15 - Oct. 10
  - (ii) Still Gun Hunts for Deer
    - (1) Oct. 11 - Jan. 1 except during scheduled dog drive hunts.
  - (iii) Deer Hunts with Dogs (shotguns only)
    - (1) Last Sat. in Sept., Wed. and Thurs. before the 2nd Sat. in Oct., Fri. before the 4th Sat. in Nov., 3rd day excluding Sunday after Dec. 25
      - (a) 2 deer per day, buck only
      - (2) 2nd Sat. in Dec.
        - (a) 1 deer per day
        - (b) All deer must be checked in at designated check stations.
  - (iv) Youth Only Deer Hunt with Dogs
    - (1) Last Saturday in Nov.
    - (2) Requirements and bag limits for youth are the same as the statewide youth deer hunt day except no antlerless deer may be taken.
  - (v) Small Game (no open season for fox hunting)
    - (1) Game Zone 3 seasons and bag limits apply.
    - (2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.
- (j) Santee WMA
  - (i) Archery Deer Hunts
    - (1) Sept. 15 - Oct. 10
  - (ii) Still Gun Hunts for Deer
    - (1) Oct. 11 - Jan. 1 except during scheduled dog drive hunts
  - (iii) Deer Hunts with Dogs (shotguns only)
    - (1) 2nd Fri. and Sat. in Sept., Wed. and Thurs. before the 4th Sat. in Oct., 1st Fri. in Dec.
      - (a) 2 deer per day, buck only
      - (2) 2nd Sat. in Dec.
        - (a) 1 deer per day
        - (b) All deer must be checked in at designated check stations.
  - (iv) Youth Only Deer Hunt with Dogs
    - (1) 3rd Sat. in Oct.
    - (2) Requirements and bag limits for youth are the same as the statewide youth deer hunt day except no antlerless deer may be taken.
  - (v) Small Game (no open season for fox hunting)
    - (1) Game Zone 3 seasons and bag limits apply.
    - (2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.

7. Moultrie

- (a) No hunting or shooting within fifty feet of the center of any road during gun hunts for deer except for SCDNR draw youth hunts.
- (b) Bluefield WMA



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(i) Open only to youth 17 years of age or younger who must be accompanied by an adult at least 21 years of age. Youth hunters must carry a firearm and hunt. Adults with youth are allowed to carry a weapon and hunt.

(ii) Still Gun Hunts for Deer

(1) Sept. 15 - Jan. 1, Wed. and Sat. only

(iii) Small Game (no fox squirrels)

(1) Game Zone 3 seasons and bag limits apply.

(2) No small game hunting during scheduled deer hunts.

(c) Greenfield WMA

(i) Still Gun Hunts for Deer

(1) Sept. 15 - Jan. 1

(ii) Small Game (no fox squirrels)

(1) Thanksgiving Day - Mar. 1

(2) Game Zone 3 bag limits

(d) North Dike WMA

(i) Still Gun Hunts for Deer

(1) Sept. 15 - Oct. 15.

(ii) Special Gun Hunts for youth and women

(1) Hunters selected by drawing.

(2) 1 deer per day

(iii) Small Game (no fox squirrels)

(1) Jan. 2 - Mar. 1

(2) Game Zone 3 bag limits.

(3) Sandy Beach Waterfowl Area open for raccoon hunting Feb. 9 - Mar. 1

(e) Porcher and Hall WMAs

(i) Archery Deer Hunts

(1) Sept. 15 - Jan. 1

(ii) Small Game (no fox squirrels) shotguns only

(1) Jan. 2 - Mar. 1

(2) Game Zone 3 bag limits

(f) Cross Station Site

(i) Special Gun Hunts for youth and women

(1) No open season except hunters selected by drawing

(2) 1 deer per day

8. Santee Cooper WMA

(a) Data cards required for hunter access. Completed data cards must be returned daily upon leaving. Hunters limited to two deer/tree stands. No stands may be placed on Santee Cooper WMA prior to Sept. 1. Campground is open during scheduled deer hunts only. All impoundments and posted buffers are closed to all public access Nov. 1 - Feb. 8 except during hunts as prescribed by the Department.

(b) Designated as a Quality Deer Management Area

(c) Archery Deer Hunts

(i) Sept. 15 - Oct. 31

(d) Primitive Weapons Deer Hunts

(i) Nov. 1 - Monday before Thanksgiving Day

(e) Special Gun Hunts for youth

(i) Hunters selected by drawing.

(ii) 1 deer per day

(f) Small Game (no fox squirrels)

(i) Thanksgiving Day - Mar. 1

(ii) Game Zone 3 bag limits

9. Webb WMA

(a) Data cards are required for hunter access. Completed data cards must be returned daily upon leaving. Designated as a Quality Deer Management Area.

(b) Hunting on Sundays will be allowed for all species beginning October 15 and continuing through the last day of January subject to seasons and bag limits as specified below.

(c) Still Hunts for Deer

- (i) Hunters selected by drawing
- (ii) 2 deer, either sex but only 1 buck

(d) Hog Hunts with Dogs

(i) 1st Thurs. - Sat. in Mar., 2nd Thurs. - Sat. in May, 4th Thurs. - Sat. in June, 4th Thurs. - Sat. in July, and last Thurs. Sat. in August

(e) Quail Hunts

(i) 1<sup>st</sup> Sat. following Thanksgiving, 1<sup>st</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Wed. in Dec., 3<sup>rd</sup> Sat. in Dec., 1<sup>st</sup> and 4<sup>th</sup> Sat. in Jan., 3<sup>rd</sup> Wed. in Jan., 2<sup>nd</sup> Wed. in Feb., 3<sup>rd</sup> Sat. in Feb.

- (ii) Game Zone 3 bag limit
- (iii) Shooting hours end 30 minutes prior to official sunset

(f) Raccoon and Opossum

(i) Tues. nights and Sat. nights between Oct. 11 - Sat. before Thanksgiving; The full week of Thanksgiving; Tues. nights and Sat. nights from the Tues. after Thanksgiving until Dec. 15.; Dec. 15 - Mar. 1

- (ii) On Saturdays prior to Dec. 15, no entry onto WMA until 1 hour after official sunset.
- (iii) Game Zone 3 bag limits

(g) Other Small Game (no fox squirrels)

- (i) Thanksgiving Day through the following Sunday, Dec. 15 - Mar. 1
- (ii) Game Zone 3 bag limits

(h) Dove Hunting

- (i) Designated public dove field only on specified days.

10. Bear Island WMA

(a) All hunters must sign in and out at the Bear Island Office. Hunting in designated areas only.

(b) Archery Deer Hunts

- (i) Oct. 1 - Oct. 10

(c) Still Gun Hunts for Deer

- (i) Hunters selected by drawing
- (ii) 3 deer, either sex but only 1 buck

(d) Hog Hunts with Dogs

- (i) 1st Thurs. - Sat. in March

(e) Alligator Hunts (Bear Island East and West Units only)

- (i) Hunters selected by drawing only. Limited season with restricted access.
- (ii) Limit and size restrictions as prescribed.

(f) Small Game

- (i) Feb. 8 - Mar. 1
- (ii) Game Zone 3 bag limits

11. Donnelley WMA

(a) All hunters must sign in and out at the check station. Hunting in designated areas only.

(b) Archery Deer Hunts

- (i) Sept. 15 - Sept. 30

(c) Still Gun Hunts for Deer

- (i) Hunters selected by drawing
- (ii) 3 deer, either sex but only 1 buck

(d) Hog Hunts with Dogs

- (i) 1st Thurs. - Sat. in March

(e) Small Game (no fox squirrels)

- (i) Thanksgiving Day - Mar. 1
- (ii) Game Zone 3 bag limits

12. Hatchery WMA

(a) Archery Deer Hunts

- (i) Sept. 15 - Jan. 1

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(b) No small game hunting

### 13. Bonneau Ferry WMA

(a) All terrain vehicles prohibited. Hunting access by boat is prohibited. For hunting, the Adult/youth side is open only to youth 17 years old or younger who must be accompanied by only one adult 21 years of age or older. Youth hunters must carry a firearm and hunt. Adults with youth hunters may also carry a firearm and hunt. For deer and small game, regulations for the adult/youth and general use sides of the property will alternate each year as prescribed by the Department. All hunters must sign in and sign out upon entering or leaving. All deer must be checked out at the main entrance. Closed to public access one hour after sunset until one hour before sunrise except for special hunts regulated by DNR. Hunters may not enter WMA prior to 5:00 AM on designated hunts. All impoundments and adjacent posted buffers are closed to all public access Nov. 1 - Feb. 8 except for special draw deer hunts and waterfowl hunts regulated by DNR during the regular waterfowl season. Hunted areas are closed to general public access during scheduled deer, turkey and waterfowl hunts. No fox hunting.

(b) Adult/Youth Side

(i) Still Gun Hunts for Deer

(1) Sept. 15 - Jan. 1

(c) General Use Side

(i) Archery Deer Hunts

(1) Sept. 15 - Sept. 30

(ii) Still Gun Hunts for Deer

(1) Hunters selected by drawing

(2) Total 3 deer, either sex except only 1 buck.

(3) Hunters are required to have permit in possession and must sign in and out (Name, permit # and deer killed each day).

(d) Small Game (no fox squirrels or fox)

(i) Jan. 2 - Mar. 1

(ii) Game Zone 3 bag limits

(iii) Dogs allowed during gun seasons only

(e) Bonneau Ferry Fishing Regulations

(i) Open to fishing from Mar. 2 - Oct. 31 during daylight hours only

(ii) Adult/youth fishing only. Each youth (17 years and under) must be accompanied by no more than two adults 18 years of age or older.

(iii) The youth must actively fish.

(iv) Fishing is not allowed during scheduled deer and turkey hunts.

(v) Only electric motors may be used.

(vi) Creel limits per person per day are: largemouth bass - 2, panfish (bluegill, redear, crappie, pumpkinseed, redbreast) - 10, catfish - 5, species not listed - no limit. Grass carp must be released alive immediately.

### 14. Santee Coastal Reserve WMA

(a) Archery Deer Hunts

(i) Sept. 15 - Jan. 1

(ii) Hunting on mainland only

(b) Hog Hunts with Dogs

(i) 2nd full week in March

(c) Alligator Hunts

(i) Hunters selected by drawing only. Limited season with restricted access.

(ii) Limit and size restrictions as prescribed

(d) Small Game (no fox squirrels)

(i) Thanksgiving Day - Mar. 1

(ii) Game Zone 3 bag limits

### 15. Dungannon Heritage Preserve WMA

(a) Archery Deer Hunts

(i) Sept. 15 - Jan. 1

(b) Small Game (no fox squirrels)

- (i) Thanksgiving Day - Jan. 31
  - (ii) Game Zone 3 bag limits
16. Edisto River WMA
- (a) Hunting on Sundays will be allowed for all species beginning October 15 and continuing through the last day of January subject to seasons and bag limits as specified below.
  - (b) Archery Deer Hunts
    - (i) Sept. 15 - Oct. 10
  - (c) Still Gun Hunts for Deer
    - (i) Oct. 11 - Jan. 1
  - (d) Raccoon and Opossum
    - (i) Game Zone 3 seasons and bag limits
  - (e) Other Small Game
    - (i) Thanksgiving Day - Mar. 1
    - (ii) Game Zone 3 bag limits
17. Canal WMA
- (a) Quail Hunts
    - (i) Game Zone 3 season and bag limit
18. Palachucola WMA
- (a) Data cards are required for hunter access. Completed data cards must be returned daily upon leaving WMA. Designated as a Quality Deer Management Area.
  - (b) Hunting on Sundays will be allowed for all species beginning October 15 and continuing through the last day of January subject to seasons and bag limits as specified below.
  - (c) Archery Deer Hunts
    - (i) Sept. 15 - Oct. 10
  - (d) Still Gun Hunts for Deer
    - (i) Hunters selected by drawing
    - (ii) 3 deer, either sex but only 1 buck
  - (e) Hog Hunts with Dogs
    - (i) 1st Thurs. - Sat. in Mar., 2nd Thurs. - Sat. in May, 4th Thurs. - Sat. in June, 4th Thurs. - Sat. in July, and last Thurs. Sat. in August
  - (f) Quail Hunts
    - (i) 1<sup>st</sup> Sat. following Thanksgiving, 1<sup>st</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Wed. in Dec., 3<sup>rd</sup> Sat. in Dec., 1<sup>st</sup> and 4<sup>th</sup> Sat. in Jan., 3<sup>rd</sup> Wed. in Jan., 2<sup>nd</sup> Wed. in Feb., 3<sup>rd</sup> Sat. in Feb.
    - (ii) Game Zone 3 bag limit
    - (iii) Shooting hours end 30 minutes prior to official sunset.
  - (g) Raccoon and Opossum
    - (i) Tues. nights and Sat. nights between Oct. 11 - Sat. before Thanksgiving; The full week of Thanksgiving; Tues. nights and Sat. nights from the Tues. after Thanksgiving until Dec. 15.; Dec. 15 - Mar. 1
    - (ii) On Saturdays prior to Dec. 15, no entry onto WMA until 1 hour after official sunset.
    - (iii) Game Zone 3 bag limits
  - (h) Other Small Game (no fox squirrels)
    - (i) Thanksgiving Day through the following Sunday, Dec. 15 - Mar. 1
    - (ii) Game Zone 3 bag limits
19. St. Helena Sound Heritage Preserve WMA
- (a) Deer hunting by permit only obtained at McKenzie Field Station. Camping by special permit only and on Otter Island only.
  - (b) Ashe, Beet, Warren, Otter, Big, South Williman, North Williman and Buzzard Islands Archery Deer Hunts
    - (i) Sept. 15 - Jan. 1
  - (c) No small game hunting
20. Tillman Sand Ridge Heritage Preserve WMA
- (a) Archery Deer Hunts
    - (i) Sept. 15 - Jan. 1

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- (b) Small Game (no fox squirrels)
  - (i) Thanksgiving Day - Mar. 1
  - (ii) Game Zone 3 bag limits
- 21. Victoria Bluff Heritage Preserve WMA
  - (a) Archery Deer Hunts
    - (i) Sept. 15 - Jan. 1
  - (b) Small Game (no fox squirrels)
    - (i) Jan. 2 - Mar. 1
    - (ii) Game Zone 3 bag limits
    - (iii) Shotguns only
- 22. Hamilton Ridge WMA
  - (a) Designated as a Quality Deer Management Area. Horseback riding by permit only. No ATVs allowed. Data cards are required for hunter access. Completed data cards must be returned daily upon leaving the WMA.
  - (b) Hunting on Sundays will be allowed for all species beginning October 15 and continuing through the last day of January subject to seasons and bag limits as specified below.
  - (c) Archery Deer Hunts
    - (i) Sept. 15 - Oct. 10
  - (d) Still Gun Hunts for Deer
    - (i) Hunters selected by drawing
    - (ii) 3 deer, either sex but only 1 buck
  - (e) Hog Hunts with Dogs
    - (i) 1st Thurs. - Sat. in Mar., 2nd Thurs. - Sat. in May, 4th Thurs. - Sat. in June, 4th Thurs. - Sat. in July, and last Thurs. Sat. in August.
  - (f) Quail Hunts
    - (i) 1<sup>st</sup> Sat. following Thanksgiving, 1<sup>st</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Wed. in Dec., 3<sup>rd</sup> Sat. in Dec., 1<sup>st</sup> and 4<sup>th</sup> Sat. in Jan., 3<sup>rd</sup> Wed. in Jan., 2<sup>nd</sup> Wed. in Feb., 3<sup>rd</sup> Sat. in Feb.
    - (ii) Game Zone 3 bag limit
    - (iii) Shooting hours end 30 minutes prior to official sunset.
  - (g) Raccoon and Opossum
    - (i) Tues. nights and Sat. nights between Oct. 11 - Sat. before Thanksgiving; The full week of Thanksgiving; Tues. nights and Sat. nights from the Tues. after Thanksgiving until Dec. 15.; Dec. 15 - Mar. 1
    - (ii) On Saturdays prior to Dec. 15, no entry onto WMA until 1 hour after official sunset.
    - (iii) Game Zone 3 bag limits
  - (h) Other Small Game (no fox squirrels)
    - (i) Thanksgiving Day through the following Sunday, Dec. 15 - Mar. 1
    - (ii) Game Zone 3 bag limits
    - (iii) Dove hunting on designated public dove field only
- 23. Old Island Heritage Preserve WMA
  - (a) Archery Deer Hunts
    - (i) Sept. 15 - Jan. 1
  - (b) No small game hunting
- 24. Botany Bay Plantation Heritage Preserve WMA
  - (a) Designated as a Quality Deer Management Area. All hunters, fishermen and visitors must obtain and complete a day use pass upon entering the area and follow all instructions on the pass. Botany Bay Plantation WMA is open to public access during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) except during special hunts and events regulated by DNR. Area is closed to general public access during special scheduled hunts. Hunting in designated areas only. Hunting access by boat is prohibited. Fishing in the Jason's Lake complex and all other ponds is adult/youth catch and release only on designated days. For adult/youth fishing, youth must be accompanied by no more than two adults 18 years old or older. Adult may also fish.
  - (b) Archery Deer Hunts
    - (i) Sept. 15 - Oct. 10, Mon. - Sat. during the week of Thanksgiving, Mon. - Sat. during the week of Christmas.
  - (c) Still Gun Hunts for Deer

- (i) Hunters selected by drawing
- (ii) Total 3 deer, either sex but only 1 buck
- (iii) Hunters are required to have permit in possession and must sign in and sign out (Name, permit # and deer killed each day) at the designated check station. All harvested deer must be checked in at the designated check station.

- (d) Small Game (no fox squirrels or foxes)
  - (i) Jan. 2 - Mar. 1 (Wed. through Sat. only)
  - (ii) Game Zone 3 bag limits
  - (iii) Dogs allowed during gun seasons only

25. Congaree Bluffs Heritage Preserve WMA

- (a) Still Gun Hunts for Deer
  - (i) Hunters selected by drawing.
  - (ii) Total 1 deer per day, either sex
- (b) No small game hunting

26. Wateree River Heritage Preserve WMA

(a) Data cards are required for hunter and fisherman access. Completed data cards must be returned daily upon leaving WMA. All harvested deer and turkeys must be checked in at the Wateree River check station. Hunters may not enter the WMA prior to 5:00 AM on designated hunts. Hunted areas are closed to general public access during scheduled deer, turkey and waterfowl hunts. Designated as a Quality Deer Management Area.

- (b) Archery Deer Hunts
  - (i) Sept. 15 - Oct. 10
- (c) Still Gun Hunts for Deer
  - (i) Hunters selected by drawing
  - (ii) 3 deer, either sex but only 1 buck
- (d) Small Game (no fox squirrels)
  - (i) Jan. 2 - Mar. 1
  - (ii) Game Zone 3 bag limits.

27. South Fenwick Island

(a) Deer hunting by permit only. Primitive camping is allowed by permit within designated areas. Permits available from DNR through the McKenzie Field Station. Property is closed to other users during scheduled deer hunts.

- (b) Archery Deer Hunts
  - (i) Hunters selected by drawing.
- (c) No small game or waterfowl hunting

28. Turtle Island

- (a) No hunting except waterfowl and marsh hens

29. Coosawhatchie WMA

(a) Designated as a Quality Deer Management Area. Horseback riding by permit only. No ATVs allowed. Data cards are required for hunter access. Completed data cards must be returned daily upon leaving the WMA.

- (b) Archery Deer Hunts
  - (i) Sept. 15. – Oct. 10
- (c) Still Hunts for Deer
  - (i) Hunters selected by drawing
  - (ii) 3 deer, either sex but only 1 buck
- (d) Quail Hunts
  - (i) 1<sup>st</sup> Sat. following Thanksgiving, 1<sup>st</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Wed. in Dec., 3<sup>rd</sup> Sat. in Dec., 1<sup>st</sup> and 4<sup>th</sup> Sat. in Jan., 3<sup>rd</sup> Wed. in Jan., 2<sup>nd</sup> Wed. in Feb., 3<sup>rd</sup> Sat. in Feb.
  - (ii) Game Zone 3 bag limit
  - (iii) Shooting hours end 30 minutes prior to official sunset
- (e) Small Game (no fox squirrels)
  - (i) Jan. 2 – Mar. 1
  - (ii) Game Zone 3 Bag Limits

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(iii) Dove hunting in designated public dove field only

### D. Game Zone 4

#### 1. Other WMAs

- (a) Archery Deer Hunts.
  - (i) Sept. 15 - Oct. 10
- (b) Still Gun Hunts for Deer
  - (i) Oct. 11 - Jan. 1
- (c) Small Game
  - (i) Game Zone 4 seasons and bag limits apply

#### 2. Marsh WMA

- (a) All visitors to Marsh WMA are required to sign in upon entry to the WMA and sign out upon exit from the WMA and provide any additional information requested. No ATVs allowed.
- (b) Special Hunt Area for Youth and Mobility Impaired Hunters
  - (i) No open season except for hunters selected by drawing
  - (ii) 1 deer per day, either sex
- (c) Archery Deer Hunts
  - (i) Sept. 15 - Oct. 31
- (d) Still Gun Hunts for Deer
  - (i) Nov. 1 - Nov. 30
- (e) Still Hog Hunts
  - (i) First full week in Mar.
- (f) Hog Hunts with Dogs
  - (i) 3rd full week in Mar. and 3rd full week in May
- (g) Raccoon and Opossum Hunts
  - (i) Game Zone 4 seasons and bag limits
- (h) Other Small Game (no fox squirrels)
  - (i) Thanksgiving - Mar. 1
  - (ii) Game Zone 4 bag limits
- (i) Quail Hunts
  - (i) 1<sup>st</sup> Sat. following Thanksgiving, 1<sup>st</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Wed. in Dec., 3<sup>rd</sup> Sat. in Dec., 1<sup>st</sup> and 4<sup>th</sup> Sat. in Jan., 3<sup>rd</sup> Wed. in Jan., 2<sup>nd</sup> Wed. in Feb., 3<sup>rd</sup> Sat. in Feb.
    - (ii) Game Zone 4 bag limit.
    - (iii) Shooting hours end 30 minutes prior to official sunset.

#### 3. Sand Hills State Forest WMA

- (a) Hunting by the general public closed during scheduled field trials on the Sand Hills State Forest Special Field Trial Area. Hunting allowed during permitted field trials on the Sand Hills State Forest Special Field Trial Area in compliance with R.123-96. No man drives allowed.
- (b) Archery Deer Hunts
  - (i) Sept. 15 - Oct. 10
- (c) Still Gun Hunts for Deer
  - (i) Oct. 11 - Jan. 1
- (d) Small Game
  - (i) Game Zones 4 seasons and bag limits apply. No daytime fox hunting from Sept. 15 - Jan. 1

#### 4. McBee WMA

- (a) All visitors are required to sign in upon entry to the WMA and sign out upon exit and provide any additional information requested on sign in sheets at the kiosk. No ATVs allowed.
- (b) Archery Deer Hunts
  - (i) Sept. 15 - Oct. 10
- (c) Still Gun Hunts for Deer.
  - (i) Oct. 11 - Saturday before Thanksgiving
- (d) Quail
  - (i) no open season except hunters selected by drawing. Bag limit 10 birds per hunt party.

- (e) Other Small Game (no fox squirrels)
  - (i) Jan. 15 - Mar. 1
  - (ii) Game Zone 4 bag limits
- 5. Pee Dee Station Site WMA
  - (a) All visitors are required to sign in upon entry to the WMA and sign out upon exit and provide any additional information requested on sign in sheets at the kiosk. No ATVs allowed.
  - (b) Archery Deer Hunts
    - (i) Sept. 15 - Oct. 31
  - (c) Primitive Weapons Deer Hunts
    - (i) Nov. 1 - Nov. 30
  - (d) Small Game (no fox squirrels)
    - (i) Thanksgiving Day - Mar. 1
    - (ii) Game Zone 4 bag limits
- 6. Woodbury WMA
  - (a) Hunting on Sundays will be allowed for all species beginning October 15 and continuing through the last day of January subject to seasons and bag limits as specified below.
  - (b) All visitors are required to sign in upon entry and sign out upon exit and provide any additional information requested on sign in sheets at the kiosk. No ATVs allowed.
  - (c) Designated as a Quality Deer Management Area
  - (d) Archery Deer Hunts
    - (i) Sept. 15 - Oct. 10
  - (e) Primitive Weapons Deer Hunts
    - (i) Oct. 11 - Oct. 20
  - (f) Still Gun Hunts for Deer
    - (i) Oct. 21 - Jan. 1
  - (g) Still Hog Hunts
    - (i) First full week in Mar.
  - (h) Hog Hunts with Dogs
    - (i) 3rd full week in Mar. and 3rd full week in May
  - (i) Raccoon and opossum
    - (i) Game Zone 4 seasons and bag limits
  - (j) Other Small Game (no fox squirrels)
    - (i) Thanksgiving Day - Mar. 1
    - (ii) Game Zone 4 bag limits
- 7. Little Pee Dee Complex WMA
  - (a) Includes Little Pee Dee River HP, Tilghman HP, Dargan HP and Ward HP in Horry and Marion Counties. This also includes the Upper Gunter's Island and Huggins tracts in Horry Co. which are part of Dargan HP.
  - (b) Archery Deer Hunts
    - (i) Sept. 15 - Oct. 10
  - (c) Primitive Weapons Deer Hunts
    - (i) Oct. 11 - Oct. 20.
  - (d) Still Gun Hunts for Deer
    - (i) Oct. 21 - Jan. 1.
  - (e) Still Hog Hunts
    - (i) First full week in Mar.
  - (f) Hog Hunts with Dogs
    - (i) 2nd full week in Mar.
  - (g) Raccoon and opossum
    - (i) Game Zone 4 seasons and bag limits
  - (h) Other Small Game (no fox squirrels)
    - (i) Thanksgiving Day - Mar. 1
    - (ii) Game Zone 4 bag limits



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- (i) Bear Season
  - (i) October 17 - October 30
- 8. Great Pee Dee Heritage Preserve WMA
  - (a) All visitors are required to sign in upon entry and sign out upon exit and provide any additional information requested on sign in sheets at the kiosk. No ATVs allowed.
  - (b) For big game hunting, access is restricted from two hours before sunrise to two hours after official sunset.
  - (c) Archery Deer Hunts
    - (i) Sept. 15 - Oct. 31
  - (d) Still Gun Hunts for Deer
    - (i) Nov. 1 - Nov. 30
  - (e) Still Hog Hunts
    - (i) First full week in March
  - (f) Hog Hunts with Dogs
    - (i) 3rd full week in Mar. and 3rd full week in May
  - (g) Raccoon and opossum
    - (i) Game Zone 4 seasons and bag limits
  - (h) Other Small Game (no fox squirrels)
    - (i) Thanksgiving Day - Mar. 1
    - (ii) Game Zone 4 bag limits
- 9. Longleaf Pine Heritage Preserve WMA
  - (a) Archery Deer Hunts
    - (i) Sept. 15 - Oct. 10
  - (b) Still Gun Hunts for Deer
    - (i) Oct. 11 - Jan. 1
  - (c) Small Game (no fox squirrels)
    - (i) Thanksgiving Day - Mar. 1
    - (ii) Game Zone 4 bag limits
- 10. Manchester State Forest WMA
  - (a) Archery Deer Hunts
    - (i) September 15 - 30
  - (b) Still Gun Hunts for Deer
    - (i) October 1 January 1 except during scheduled dog drive hunts
    - (ii) No man drives
  - (c) Deer Hunts with Dogs
    - (i) Clubs selected by drawing.
    - (ii) Last Saturday in October, 3rd Friday and Saturday in November, 3<sup>rd</sup> Friday and Saturday in December.
  - (d) Small Game
    - (i) Thanksgiving Day - Mar. 1
    - (ii) Game Zone 4 bag limits
  - (e) Still Gun Hunts for Hogs
    - (i) First full week of March
  - (f) Hog Hunts with Dogs
    - (i) 2nd full week in Mar.
- 11. Lynchburg Savanna Heritage Preserve WMA
  - (a) Small Game Only (no fox squirrels)
    - (i) Game Zone 4 seasons and bag limits
- 12. Hickory Top WMA
  - (a) Data cards required for hunter access. Completed data cards must be returned daily upon leaving. The Greentree Reservoir is open to hunting during the regular Hickory Top seasons during years when the Greentree Reservoir remains unflooded.
  - (b) Archery Deer Hunts

- (i) Sept. 15 - Oct. 31
- (c) Primitive Weapons Deer Hunts
  - (i) Nov. 1 - Jan. 1
- (d) Hog Hunts with Dogs
  - (i) 2nd full week in Mar.
- (e) Small Game (no fox squirrels)
  - (i) Game Zone 4 seasons and bag limits apply.
- 13. Oak Lea WMA
  - (a) Archery Deer Hunts
    - (i) Sept. 15 - 30
  - (b) Still Gun Hunts for Deer
    - (i) October 1 - January 1 except no deer hunting during scheduled quail hunts
    - (ii) No man drives
  - (c) Small Game (except quail)
    - (i) Thanksgiving Day - Mar. 1 except no other small game hunting during scheduled quail hunts
    - (ii) Game Zone 4 bag limits
  - (d) Quail
    - (i) Saturdays 1<sup>st</sup> Sat. following Thanksgiving, 1<sup>st</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Wed. in Dec., 3<sup>rd</sup> Sat. in Dec., 1<sup>st</sup> and 4<sup>th</sup> Sat. in Jan., 3<sup>rd</sup> Wed. in Jan., 2<sup>nd</sup> Wed. in Feb., 3<sup>rd</sup> Sat. in Feb.
    - (ii) Game Zone 4 bag limits
    - (iii) Shooting hours end 30 minutes prior to official sunset
- 14. Santee Dam WMA
  - (a) Archery Deer Hunts
    - (i) Sept. 15 - Oct. 31
  - (b) Primitive Weapons Deer Hunts
    - (i) Nov. 1 - Jan. 1
  - (c) Hog Hunts with Dogs
    - (i) 2nd full week in March
  - (d) Small Game (no fox squirrels)
    - (i) Jan. 2 - Mar. 1
    - (ii) Game Zone 4 bag limits
- 15. Wee Tee WMA
  - (a) Archery Deer Hunts
    - (i) Sept. 15 - Sept. 30
  - (b) Still Gun Hunts for Deer
    - (i) Oct. 1 - Jan. 1
  - (c) Still Hog Hunts
    - (i) First full week in March
  - (d) Hog Hunts with Dogs
    - (i) 2nd full week in March
  - (e) Small Game (no fox squirrels, no fox hunting)
    - (i) Thanksgiving Day - Mar. 1
    - (ii) Game Zone 4 bag limits
    - (iii) Dogs allowed during small game gun season only
  - (f) Bear Season
    - (i) October 17 - October 30
- 16. Santee Delta WMA
  - (a) Archery Deer Hunts
    - (i) Sept. 15 - Oct. 10
  - (b) Hog Hunts with Dogs
    - (i) 2nd full week in Mar. (impoundments only)
  - (c) No small game hunting
- 17. Samworth WMA

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- (a) Archery Deer Hunts (impoundments only)
    - (i) Sept. 15 - Oct. 10
  - (b) Hog Hunts with Dogs
    - (i) 2nd full week of Mar. (impoundments only)
  - (c) No small game hunting except dove hunting during scheduled dove hunts
18. Cartwheel Bay Heritage Preserve WMA
- (a) Archery Deer Hunts
    - (i) Sept. 15 - Jan. 1
  - (b) Small Game (no fox squirrels)
    - (i) Thanksgiving Day - Mar. 1
    - (ii) Game Zone 4 bag limits
  - (c) Bear Season
    - (i) October 17 - October 30
19. Lewis Ocean Bay Heritage Preserve WMA
- (a) All deer hunters must sign in and sign out daily and record harvest at the kiosk.
  - (b) Archery Deer Hunts
    - (i) Sept. 15 - Oct. 10
  - (c) Primitive Weapons Deer Hunts
    - (i) Oct. 11 - Oct. 20
  - (d) Still Gun Hunts for Deer
    - (i) Oct. 21 - Jan. 1.
  - (e) Small Game (no fox squirrels).
    - (i) Thanksgiving Day - Mar. 1
    - (ii) Game Zone 4 bag limits
  - (f) Bear Season
    - (i) October 17 - October 30
20. Waccamaw River Heritage Preserve WMA
- (a) Archery Deer Hunts
    - (i) Sept. 15 - Oct. 10
  - (b) Primitive Weapons Deer Hunts
    - (i) Oct. 11 - Oct. 20
  - (c) Still Gun Hunts for Deer
    - (i) Oct. 21 - Jan. 1
  - (d) Still Hog Hunts
    - (i) First full week in March
  - (e) Hog Hunts with Dogs
    - (i) 2nd full week in Mar.
  - (f) Small Game (no fox squirrels)
    - (i) Thanksgiving Day - Mar. 1
    - (ii) Game Zone 4 bag limits
  - (g) Bear Season
    - (i) October 17 - October 30
21. Liberty Hill WMA
- (a) Hunting on Sundays will be allowed for all species beginning October 15 and continuing through the last day of January subject to seasons and bag limits as specified below.
  - (b) Designated as a Quality Deer Management Area
  - (c) Archery Hunts for Deer
    - (i) Sept. 15 - Sept. 30
  - (d) Primitive Weapons for Deer
    - (i) Oct. 1 - Oct. 10
  - (e) Still Gun Hunts for Deer
    - (i) Oct. 11 - Jan. 1
  - (f) Small Game (No fox squirrels)

- (i) Zone 4 seasons and bag limits apply.
- 22. Santee Island WMA
  - (a) Archery Deer Hunts
    - (i) Sept. 15 – Jan. 1
  - (b) Small Game (no fox squirrels)
    - (i) Thanksgiving Day - Mar. 1
    - (ii) Game Zone 4 bag limits.
  - (c) Still Hunts for Hogs
    - (i) First full week in March
- 23. Ramsey Grove WMA
  - (a) Still Hunts for Deer
    - (i) Hunters selected by drawing
    - (ii) 3 deer, either sex but only 1 buck
- 24. Bobwhite Hills WMA
  - (a) All visitors are required to sign in upon entry to the WMA and sign out upon exit and provide any additional information requested on sign in sheets at the kiosk. No ATVs allowed.
  - (b) Archery Deer Hunts
    - (i) Sept. 15 - Oct. 10
  - (c) Still Gun Hunts for Deer.
    - (i) Oct. 11 - Saturday before Thanksgiving
  - (d) Quail
    - (i) no open season except hunters selected by drawing. Bag limit 10 birds per hunt party.
  - (e) Other Small Game (no fox squirrels)
    - (i) Jan. 15 - Mar. 1
    - (ii) Game Zone 4 bag limits

## GENERAL REGULATIONS

2.1 Except as provided in these regulations, no person may hunt or take wildlife on areas designated by the South Carolina Department of Natural Resources (SCDNR) as Wildlife Management Area (WMA) lands.

2.2 Entry onto WMA land is done wholly and completely at the risk of the individual. Neither the landowners nor the State of South Carolina nor the South Carolina Department of Natural Resources accepts any responsibility for acts, omissions, or activities or conditions on these lands which cause personal injury or property damage.

2.3 Entry onto WMA land constitutes consent to an inspection and search of the person, game bag or creel.

2.4 No person may hunt or take wildlife on WMA land unless an individual is in possession of a valid South Carolina license, a valid WMA permit, and other applicable federal or state permits, stamps or licenses.

2.5 No Sunday hunting is permitted on any WMA lands unless otherwise specified.

2.6 On all WMA lands, baiting or hunting over a baited area is prohibited. As used in this section, “bait” or “baiting” means the placing, depositing, exposing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat, or other grain or other food stuffs to constitute an attraction, lure, or enticement to, on, or over any area. “Baited area” means an area where bait is directly or indirectly placed, deposited, exposed, distributed, or scattered and the area remains a baited area for ten (10) days following the complete removal of all bait. Salt/minerals are not considered bait.

2.7 On WMA lands, construction or use of tree stands is prohibited if the tree stand is constructed by driving nails or other devices into trees or if wire is wrapped around trees. Other tree stands are permitted provided they are not permanently affixed or embedded in the tree. Excluding deer stands erected by the Department on WMA lands for the purpose of special hunts, no deer stands or temporary climbing devices may be placed on WMA lands prior to August 10 in any given year and must be removed by January 15 of the succeeding calendar year. All deer stands and temporary climbing devices must be labeled with the DNR Customer ID number of the person responsible for the stand or climbing device in a conspicuous location using an identification tag, etching, or permanent marker.

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2.8 On WMA lands, any hunter younger than sixteen (16) years of age must be accompanied by an adult (21 years or older). Sight and voice contact must be maintained.

2.9 Notwithstanding any other provision of these regulations, the Department may permit special hunts on any day during the regular hunting season.

2.10 No person may release or attempt to release any animal onto WMA lands without approval from the Department. This regulation does not apply on designated Public Bird Dog Training Areas where pen raised quail and pigeons may be released.

2.11 While participating in a hunt on WMAs, no person may possess, consume or be under the influence of intoxicants, including beer, wine, liquor or drugs.

2.12 On WMA lands, during the designated statewide youth deer hunt day, only still hunting is allowed. The limit is two deer total, either sex. Tags are not required.

2.13 Taking or destroying timber, other forest products or cutting firewood on WMA lands without written permission from the landowner or his agent is prohibited. Users of WMA lands are prohibited from planting, attempting to plant, burning or otherwise attempting to manipulate crops, natural vegetation or openings without written permission from the landowner or his agent.

2.14 On WMA lands, hunting armadillos and coyotes at night is prohibited. Armadillos and coyotes may be hunted during any open season for game during daylight hours with no bag limit. Weapon(s) used to hunt armadillos and coyotes are limited to the weapon(s) that are allowed for the current open season on WMA.

2.15 On WMA lands during special designated hunts, a WMA may be closed to other public access.

2.16 Still hunting for hogs is permitted on WMAs during any open season for game during daylight hours with only the weapons allowed during the hunting season in progress unless otherwise prohibited. No hog may be transported alive from a WMA. Hogs may not be hunted at night. There is no bag limit on hogs. Hunters must wear a hat, coat, or vest of solid international orange while hog hunting. Buckshot is prohibited. During hog hunts with dogs, no still or stalk hunting is allowed and only handguns are permitted. No hog hunting with dogs is allowed except during special designated seasons. During firearms seasons for deer, hog hunters possessing big game weapons must possess licenses, permits, and tags applicable to deer hunting. Big game weapons include centerfire weapons, archery equipment with broad heads, shot larger than No. 2, and muzzle loading shotguns (larger than 20 gauge) and rifles/muskets (.36 caliber or greater).

2.17 Unless otherwise specified, small game hunting seasons and bag limits on WMA lands are the same as Game Zone seasons and bag limits except no hunting before Sept. 1 or after Mar. 1. The season for hunting beavers on WMA lands shall be October 1 through March 1.

### WEAPONS

3.1 On WMA lands hunters may use any shotgun, rifle, bow and arrow, crossbow or hand gun except that specific weapons may be prohibited on certain hunts. Blow guns, dart guns, drugged arrows or arrows with exploding tips are not permitted. Small game hunters may possess or use shotguns with shot no larger than No. 2 or .22 rimfire or smaller rifles/handguns or primitive muzzle loading rifles/muskets of .40 caliber or smaller. Small game hunters may not possess or use buckshot, slugs or shot larger than No. 2. Small game hunters using archery equipment may use small game tips or broadheads on the arrows.

3.2 For Special Primitive Weapons Seasons, primitive weapons include bow and arrow, crossbow and muzzle loading shotguns (20 gauge or larger) and rifles/muskets (.36 caliber or larger) with open or peep sights or scopes, which use black powder or a black powder substitute that does not contain nitro cellulose or nitro glycerin components as the propellant charge. There are no restrictions on ignition systems (e.g. flintstone, percussion cap, shotgun primer, disk, electronic, etc.). During primitive weapons season, no revolving rifles are permitted.

3.3 On WMA lands big game hunters are not allowed to use armor piercing, tracer, incendiary, or full metal jacket bullets or .22 or smaller rimfire. Buckshot is prohibited during still gun hunts for deer on WMA lands in Game Zones 3 & 4.

3.4 On WMAs all firearms transported in vehicles must be unloaded and secured in a weapons case, or in the trunk of a vehicle or in a locked toolbox. On the Francis Marion Hunt Unit during deer hunts with dogs, loaded shotguns may be transported in vehicles. Any shotgun, centerfire rifle, rimfire rifle or pistol with a shell in the chamber or magazine, or a muzzleloader with a cap on the nipple or a flintlock with powder in the flash pan is considered loaded.

3.5 No target practice is permitted on WMA lands except in specifically designated areas.

3.6 On WMA lands during gun hunts for deer or hogs there shall be no hunting or shooting from, on or across any road open to vehicle traffic. During any deer or hog hunt there shall be no open season for hunting on any designated recreational trail on U.S Forest Service or S.C. Public Service Authority property.

## DEER

4.1 On WMA lands with designated check stations, all deer bagged must be checked at a check station. Deer bagged too late for reporting one day must be reported the following day.

4.2 Unless otherwise specified by the Department, only antlered deer may be taken on all WMA lands. Deer with visible antlers of less than two (2) inches above the hairline are considered antlerless deer and must be tagged with an antlerless deer tag issued by the Department. A point is any projection at least one inch long and longer than wide at some location at least one inch from the tip of the projection.

4.3 On WMA lands, man drives for deer are permitted between 10:00 a.m. and 2:00 p.m. only. A man drive is defined as an organized hunting technique involving two (2) or more individuals whereby an attempt is made to drive game animals from cover or habitat for the purpose of shooting, killing, or moving such animals toward other hunters. On WMA lands, drivers participating in man drives are prohibited from carrying or using weapons.

4.4 For all WMAs combined statewide, the limit for all seasons and methods combined is two deer per day, 5 deer total, no more than two antlered bucks, unless otherwise specified. For WMAs in Game Zone 1, the limit for antlerless deer for all seasons and methods combined is 3. Antlerless deer limit is two deer per day, unless otherwise specified. On special mobility impaired and youth deer hunts sanctioned by the Department and during the statewide youth deer hunt day prescribed by the Department, participants may take two deer total, either sex.

4.5 Individual Antlerless Deer Tags are valid in Game Zone 1 beginning Oct. 1 and in Game Zones 2, 3 & 4 beginning Sept. 15. For all WMAs combined, a maximum of 5 individual antlerless deer tags may be used during primitive weapons or still gun deer seasons in all Game Zones except three individual antlerless deer tags may be used in Game Zone 1. Tags do not alter the daily (2 per day) or seasonal limit or change the type of weapons that can be used during special weapons seasons.

4.6 All deer must be tagged immediately after harvest as prescribed by the Department and before being moved from the point of kill and the tag must be validated as prescribed by the Department. A valid tag must remain attached until the deer or carcass is quartered or received by a processor.

4.7 For WMAs designated as Quality Deer Management Areas, all antlered bucks must have a minimum 4 points on one side or a minimum 12 inch inside antler spread except during designated special youth hunts. Inside antler spread is measured at a right angle to centerline of the skull at its widest point between the main beams.

4.8 On WMA lands, deer, hogs, or bear may not be hunted with a firearm within 300 yards of a residence.

## DOGS

5.1 On all WMA lands, dogs may be used for small game hunting unless otherwise specified.

5.2 Dogs may be trained for quail, rabbit and squirrel hunting from Sept. 1-14 (no guns), except on designated Public Bird Dog Training Areas where bird dog training is allowed from September 15 to March 15 (Sundays excluded).

5.3 On WMA lands, dogs may be used for hunting foxes, raccoons, bobcats or opossums only between thirty (30) minutes after official sunset and 30 minutes before official sunrise.

5.4 Unless otherwise specified, deer hunting with dogs on WMA lands is prohibited. The Department may permit deer hunting with dogs on WMA lands not located in Game Zones 1 and 2. For the purposes of tracking a wounded deer, a hunter may use one dog which is kept on a leash.

5.5 Dogs may be used to hunt bear on WMA lands in Game Zone 1 during the special party dog bear season.

5.6 On WMA lands, dogs may be used to hunt hogs only during special designated hog hunts with dogs.

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### VEHICLES

6.1 On all WMA lands, no hunter may shoot from a vehicle unless permitted by the Department.

6.2 On WMA lands, motor driven land conveyances must be operated only on designated roads or trails. Unless otherwise specified, roads or trails which are closed by barricades and/or signs, either permanently or temporarily, are off limits to motor driven land conveyances.

6.3 A person may not obstruct or cause to be obstructed travel routes on WMA lands.

### VISIBLE COLOR CLOTHING

7.1 On all WMA lands during any gun and muzzleloader hunting seasons for deer, bear and hogs, all hunters including small game hunters must wear either a hat, coat, or vest of solid visible international orange. Archery hunters during archery only deer seasons and hunters for dove, turkey, ducks, geese and other hunted migratory birds including crows are exempt from this requirement while hunting for those species.

### CAMPING

8.1 Camping is not permitted on WMA lands except in designated camp sites.

### TRAPPING

9.1 Trapping on WMA lands is not permitted.

### WATERFOWL & DOVE REGULATIONS

10.1 Unless specially designated by the Department as a Wildlife Management Area for Waterfowl or a Wildlife Management Area for Dove, all Wildlife Management Areas are open during the regular season for hunting and taking of migratory birds except where restricted.

10.2 The Department may designate sections of Wildlife Management Areas and other lands and waters under the control of the Department as Designated Waterfowl Management Areas or Designated Dove Management Areas. All laws and regulations governing Wildlife Management Areas apply to these special areas. In addition, the Department may set special shooting hours, bag limits, and methods of hunting and taking waterfowl and doves on those areas. All State and Federal migratory bird laws and regulations apply. Regulations pertaining to the use of Dove Management Areas will be filed annually.

10.3 On areas where blinds are not provided, only portable blinds which are removed at the conclusion of the hunt or temporary blinds of native vegetation may be used. Temporary blinds once vacated may be used by other hunters.

10.4 On Designated Waterfowl Areas, no species other than waterfowl may be taken during waterfowl hunts. On Designated Dove Management Areas no species other than doves may be taken during dove hunts. Only dove hunting is allowed at Lake Wallace.

10.5 No fishing is permitted in any Category I Designated Waterfowl Area during scheduled waterfowl hunts.

10.6 The Bordeaux Work Center Area is closed to hunting except for special hunts as designated by the SCDNR.

10.7 Impoundments on Bear Island, Beaverdam Creek, Bonneau Ferry, Broad River, Clemson, Donnelley, Samworth, Sandy Beach, Santee Coastal Reserve, Santee Cooper, Wateree River, and Santee Delta WMAs are closed to all public access during the period Nov. 1 - Feb. 8 except during special hunts designated by the Department. All public access during the period Feb. 9 - Oct. 31 is limited to designated areas. On Bear Island WMA, Mathews' Canal is closed to all hunting from Nov. 1 - Feb. 15 beyond a point 0.8 mile from the confluence of Mathews' Canal with the South Edisto River.

10.8 Potato Creek Hatchery Waterfowl Area is closed to hunting access and fishing during the period one week prior to and two weeks after the Federal waterfowl season except for scheduled waterfowl hunts. All hunters must enter and leave the Potato Creek Hatchery Waterfowl Area through the designated public landing

on secondary road 260 and complete a data card and deposit card in receptacle prior to leaving the area. No airboats are allowed for hunting or fishing and no hunting from secondary road 260.

10.9 On Hatchery WMA, hunters must leave the area by 1 PM, except on the last Saturday of the waterfowl season when hunters may hunt until sunset. Each hunter is limited to twenty five Federally approved nontoxic shot shells per hunt. No airboats are allowed in the Hatchery WMA for hunting or fishing during the period Nov. 15 - Jan. 31. No fishing allowed during scheduled waterfowl hunts.

10.10 On Crackerneck WMA, waterfowl may be hunted only on Fri., Sat. and Thanksgiving Day within the regular migratory bird seasons and no hunting on Dec. 25; Fant's Grove WMA is open AM only on Wednesdays and Saturdays during the regular migratory bird seasons; Palachucola WMA, Tillman Sand Ridge WMA, Hamilton Ridge WMA and Webb WMA are open AM only for waterfowl hunting during the regular migratory bird seasons only on days when small game hunting is allowed and the entire week of Thanksgiving, Sundays excluded.

10.11 Category I Designated Waterfowl Areas include Beaverdam, Bonneau Ferry, Broad River, Clemson, Sandy Beach, Samworth, Santee Coastal Reserve, Ramsey Grove, Santee Delta, Tibwin, Bear Island, Wateree River Heritage Preserve, and portions of Donnelley Wildlife Management Areas. Hunting in Category I Designated Waterfowl Areas is by special permit obtained through annual computer drawing.

10.12 Category II Designated Waterfowl Areas include Biedler Impoundment, Carr Creek (bounded by Samworth WMA), Little Carr Creek (bounded by Samworth WMA), Lake Cunningham, Russell Creek, Monticello Reservoir, Parr Reservoir, Duncan Creek, Dunaway, Dungannon, Enoree River, Moultrie, Hatchery, Hickory Top, Hickory Top Greentree Reservoir, Lancaster Reservoir, Turtle Island, Little Pee Dee River Complex (including Ervin Dargan, Horace Tilghman), Great Pee Dee River, Potato Creek Hatchery, Sampson Island Unit (Bear Island), Tyger River, Marsh, Wee Tee, Woodbury, Ditch Pond, Waccamaw River Heritage Preserve, Francis Marion National Forest, Sumter National Forest, Santee Cooper, Santee Island, Coosawhatchie, portions of Donnelley, and 40 Acre Rock Waterfowl Management Areas. Hunting on Category II Designated Waterfowl Areas is in accordance with scheduled dates and times.

1. Biedler Impoundment
  - (a) Sat. AM only during regular season
  - (b) State bag limits
2. Bear Island
  - (a) Hunters selected by drawing during regular seas
  - (b) State bag limits
3. Beaverdam
  - (a) Hunters selected by drawing during regular season
  - (b) State bag limits
4. Bonneau Ferry
  - (a) Hunters selected by drawing during regular season
  - (b) State bag limits
5. Broad River
  - (a) Hunters selected by drawing during regular season
  - (b) State bag limits
6. Carr Creek (bounded by Samworth WMA, no hunting in impoundments)
  - (a) Wed. and Sat. AM only during regular season
  - (b) State bag limits
7. Little Carr Creek (bounded by Samworth WMA, no hunting in impoundments)
  - (a) Wed. and Sat. AM only during regular season
  - (b) State bag limits
8. Clemson
  - (a) Hunters selected by drawing during regular season
  - (b) State bag limits
9. Ditch Pond
  - (a) Wed. AM only during regular season
  - (b) State bag limits
10. Donnelley



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- (a) Category I Area - Hunters selected by drawing during regular season
  - (b) Category II Area - Wed. AM only during specified dates.
  - (c) State bag limits
11. Dunaway
- (a) Sat. AM only during regular season
  - (b) State bag limits
12. Duncan Creek
- (a) Sat. AM only during regular season
  - (b) State bag limits
13. Dungannon
- (a) Wed. AM only during regular season
  - (b) State bag limits
  - (c) No hunting from the Boardwalk
14. Enoree River
- (a) Sat. AM only during regular season
  - (b) State bag limits
15. Hatchery
- (a) Sat. AM only and until sunset on the last Sat. of the regular waterfowl season
  - (b) State bag limits
16. Hickory Top
- (a) Mon. through Sat. during regular season
  - (b) State bag limits
17. Hickory Top Greentree Reservoir
- (a) Sat. AM only during regular season
  - (b) State bag limits
  - (c) No hunting from roads and dikes
18. Lake Cunningham
- (a) Wed. AM only during the regular season
  - (b) State bag limits
19. Lancaster Reservoir
- (a) Mon. and Fri. AM only during the regular season
  - (b) State bag limits
20. Marsh
- (a) Fri. and Sat. AM only during regular season
  - (b) State bag limits
21. Monticello Reservoir
- (a) Mon. through Sat. AM only during regular season
  - (b) State bag limits
22. Moultrie
- (a) Mon. through Sat. during regular season
  - (b) State bag limits
23. Parr Reservoir
- (a) Mon. through Sat. during regular season
  - (b) State bag limits
24. Potato Creek Hatchery
- (a) Fri. and Sat. only during regular season
  - (b) State bag limits
25. Russell Creek
- (a) Wed. and Sat. AM only during regular season
  - (b) State bag limits
26. Sampson Island Unit (Bear Island)
- (a) Wed. and Sat. AM only during the regular season
  - (b) State bag limits

27. Samworth
  - (a) Hunters selected by drawing during regular season
  - (b) State bag limits
28. Sandy Beach
  - (a) Hunters selected by drawing during regular season
  - (b) State bag limits
29. Santee Coastal Reserve
  - (a) Hunters selected by drawing during regular season
  - (b) State bag limits
30. Santee Cooper
  - (a) Sat. AM only during regular season
  - (b) State bag limits
31. Santee Delta
  - (a) Hunters selected by drawing during regular season
  - (b) State bag limits
32. Tibwin
  - (a) Special hunts by drawing during regular season
  - (b) State bag limits
33. Turtle Island
  - (a) Fri. and Sat. AM only during regular season
  - (b) State bag limits
34. Tyger River
  - (a) Sat. AM only during regular season
  - (b) State bag limits
35. Wee Tee
  - (a) Fri. and Sat. AM only during regular season
  - (b) State bag limits
36. Woodbury
  - (a) Fri. and Sat. AM only during regular season
  - (b) State bag limits
37. Great Pee Dee
  - (a) Sat. AM only during regular season
  - (b) State bag limits
38. Little Pee Dee River Complex
  - (a) Fri. and Sat. AM only during regular season
  - (b) State bag limits
39. Waccamaw River HP
  - (a) Fri. and Sat. AM only during regular season
  - (b) State bag limits
40. 40 acre Rock
  - (a) Sat. AM only during regular season
  - (b) State bag limits
41. Wateree River HP
  - (a) Hunters selected by drawing during regular season
  - (b) State bag limits
42. Sumter National Forest
  - (a) Wednesday and Saturday mornings only during regular season
  - (b) State bag limits
43. Ramsey Grove WMA
  - (a) No waterfowl hunting except for youth or mobility impaired hunts as approved by the Department
  - (b) State bag limits
44. Francis Marion National Forest
  - (a) Monday thru Saturday during regular season

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(b) State bag limits

### 45. Coosawhatchie WMA

(a) Wednesday and Saturday mornings only during regular waterfowl season beginning after the last lottery hunt in December

(b) State bag limits

### 46. Santee Island

(a) Monday thru Saturday during regular season

(b) State bag limits

10.13 On Hickory Top WMA public waterfowl hunting without a Wildlife Management Area (WMA) permit is allowed on all land and water below 76.8'. Waterfowl hunting at or above elevation 76.8' requires a WMA permit. A WMA permit is required for waterfowl hunting in the Hickory Top Greentree Reservoir.

10.14 Designated Dove Management Areas include all dove management areas as published by the Department in the annual listing of WMA public dove fields and are subject to regulations filed annually.

10.15 Hickory Top Greentree Reservoir is closed to hunting access November 1 until March 1, except for special hunts designated by SCDNR. All hunters must accurately complete a data card and deposit card in receptacle prior to leaving the area. Hunting hours are from 30 minutes before legal sunrise until 11:00 am. Hunters may not enter the area prior to 5:00 am on hunt days. No open season on roads and dikes. Hunters may only use electric motors on boats.

10.16 On all State owned, US Forest Service and other Federally owned Category I and II Waterfowl Management Areas each hunter is limited to 25 Federally approved non toxic shells per hunt.

10.17 On Enoree River, Dunaway, Duncan Creek, Russell Creek and Tyger River Waterfowl Areas data cards are required for hunter access during scheduled waterfowl hunts. Completed data cards must be returned daily upon leaving each of these areas.

10.18 Woodbury Waterfowl Management Area includes all SCDNR owned property south of US Hwy 378 and bounded on the west by the Great Pee Dee River and Bluff Road and to the east by the Little Pee Dee River except no waterfowl hunting allowed in the area known as Hass Pond that is bounded on all sides by Hass Pond Road.

10.19 Donnelley Wildlife Management Area Category II Waterfowl Area is open Wednesday mornings only during the November thru January regular waterfowl season. The Category II area is defined as all wetlands east of Donnelley Drive and Blocker Run Road except those areas south of Blocker Run Road between Stocks Creek Road and the intersection of Mary's Island Road and the property boundary. No trailered boats and no electric or gas motors allowed. No entry before 5:00 AM and all users must sign in and sign out at designated check stations. No hunting is allowed from the dikes.

## AMPHIBIANS AND REPTILES

11.1 Taking of any amphibian or reptile, except the bullfrog, is prohibited on any Department owned Wildlife Management Areas without written permission of the Department.

## PUBLIC BIRD DOG TRAINING AREAS

12.1 The Department may establish Public Bird Dog Training Areas on Wildlife Management Area lands. A valid hunting license and WMA permit is required to train bird dogs on these lands.

12.2 It shall be unlawful to take game by any means while training bird dogs, except during the lawful open seasons for such game; provided, however, that pen raised quail or pigeons may be taken at any time on designated Public Bird Dog Training Areas for training bird dogs.

12.3 It shall be unlawful for any person to have in his or her possession any firearms or other equipment for taking game while training bird dogs, provided that handguns with blank ammunition or shot cartridges may be used for training bird dogs, and shotguns with number eight shot or smaller shot may be used while training bird dogs using pen raised quail and pigeons.

12.4 All participants in bird dog training must wear either a hat, coat, or vest of solid visible international orange.

**Fiscal Impact Statement:**

The amendment of Regulation 123-40 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, local economies should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

**Statement of Rationale:**

Rationale for the formulation of these regulations is based on over 70 years of experience by SCDNR in managing wildlife populations and establishing public hunting areas. Management objectives for specific properties are continually evaluated for needed changes. 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 Management Section of the Department of Natural Resources, Room 267, Dennis Building, 1000 Assembly Street, Columbia.

Document No. 5177  
**PUBLIC SERVICE COMMISSION**  
 CHAPTER 103  
 Statutory Authority: 1976 Code Sections 58-3-140 and 58-27-150

- 103-302. Definitions.
- 103-310. Location of Records and Reports.
- 103-330. Customer Information.
- 103-331. Customer Deposits.
- 103-333. Interest on Deposits.
- 103-339. Customer Billing.
- 103-340. Adjustment of Bills.
- 103-352. Procedures for Termination of Service.
- 103-370. Electrical Utility Inspection and Tests.
- 103-392. Safety Program.

**Synopsis:**

The Public Service Commission of South Carolina Staff began conducting its formal review of all its regulations under S.C. Code Ann. Section 1-23-120(J) when it opened Docket No. 2020-247-A on Wednesday, October 14, 2020. The Commission Staff, after it opened Docket No. 2020-247-A, provided the opportunity for interested stakeholders to recommend changes to the Commission’s Article 3, Electric Systems Regulations via written comments and oral comments at its publicly noticed workshops.

Section-by-Section Discussion:

Section	Type of Change	Purpose
103-302.	Amendment/Revision	Amended to add definitions for local office or business office and for mail.
103-310.	Amendment/Revision	Amended to require all records be maintained by a utility under Chapter 103, Article 3 either within South Carolina or in an accessible cloud-based or other

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		electronic records retention system.
103-330.	Amendment/Revision	Amended to allow posting of utilities' rate schedules on the utility's website and in each local office.
103-331.	Amendment/Revision	Amended to allow utilities, at the utility's option, to require a non-residential customer to furnish a letter of credit or surety bond in lieu of any cash deposit as a customer deposit.
103-333.	Amendment/Revision	Amended to clarify when interest on deposits ceases and the mode to communicate to the customer the cessation of interest on the deposit.
103-339.	Amendment/Revision	Amended to state the utility bill form shall show the Office of Regulatory Staff's telephone number and email address.
103-340.	Amendment/Revision	Amended to require interest to be paid when a customer is willfully overcharged as provided in S.C. Code Ann. Section 34-31-20(A) and to delete the requirement that the difference between the actual and estimated annual bill is to be resolved by one payment at the end of the equal payment plan year.
103-352.	Amendment/Revision	Amended to replace the word "house" with the word "hours" and to include gender neutral references.
103-370.	Amendment/Revision	Amended to correct terminology and to include gender neutral references.
103-392.	Amendment/Revision	Amended to correct a misspelled word.

The Notice of Drafting was published in the *State Register* on November 25, 2022.

### Instructions:

Print the regulations as shown below. All other items remain unchanged.

### Text:

103-302. Definitions.

The following words and terms, when used in these rules and regulations, shall have the meaning indicated below.

1. Commission. The Public Service Commission of South Carolina.
2. Consolidated Political Subdivision. The term ‘consolidated political subdivision’ means a consolidated political subdivision existing pursuant to the Constitution of this State, and shall not be deemed a city, town, county, special purpose district, or other governmental unit merged thereinto.
3. Customer. Any person, firm, association, establishment, partnership, or corporation, or any agency of the Federal, State or local government, being supplied with electric service by an electrical utility under the jurisdiction of this commission.
4. Electric Supplier. The term ‘electric supplier’ means any electrical utility other than a municipality, and means any electric cooperative other than an electric cooperative engaged primarily in the business of furnishing electricity to other electric cooperatives for resale to other electric consumers, and any consolidated political subdivision owning or operating an electric plant or system for furnishing of electricity to the public for compensation.
5. Electric System. The term ‘electric system’ means any electrical utility, electric supplier, utility, electric cooperative, public utility district, governmental body or agency, including consolidated political subdivisions, or another person or corporation supplying electric service to the public to the extent covered by the applicable Sections of the S. C. Code of Laws.
6. Electrical Utility. The term ‘electrical utility’ includes municipalities to the extent of their business, property, rates, transactions, and operations outside the corporate limits of the municipality, or persons, associations, firms, establishments, partnerships and corporations, their lessees, assignees, trustees, receivers, or other successors in interest owning or operating in this State equipment or facilities for generating, transmitting, delivering or furnishing electricity for street, railway or other public uses or for the production of light, heat or power to or for the public for compensation; but it shall not include an electric cooperative or a consolidated political subdivision and shall not include a person, corporation, special purpose district or municipality furnishing electricity only to himself or itself, their resident employees or tenants when such current is not resold or used by others.
7. Municipality. The term ‘municipality’ when used in these Rules and Regulations includes a city, town, county, township and any other corporation existing, created or organized as a governmental unit under the Constitution or laws of this State except a ‘Consolidated Political Subdivision’.
8. ORS. The South Carolina Office of Regulatory Staff.
9. Rate. The term ‘rate’ when used in these rules and regulations means and includes every compensation, charge, toll, rental and classification, or any of them, demanded, observed, charged, or collected by any electrical utility for any electric current or service offered by it to the public, and any rules, regulations, practices or contracts affecting any such compensation, charge, toll, rental or classification.
10. Utility. Every privately-owned corporation, firm or person furnishing or supplying electric service to the public, or any portion thereof, for compensation.
11. Local Office or Business Office. These terms mean that in the event an electrical utility operates a local office or business office set forth in this article, then the electrical utility shall comply with the requirements of the section or subsection of the regulation addressing such local office or business office. In the event the utility does not operate a local office or business office, the section or subsection of the regulation does not apply to the electrical utility.
12. Mail. The term “mail” means a communication sent by U.S. Mail or the notice method selected by the electrical utility customer and maintained in the customer’s records at the electrical utility.

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### 103-310. Location of Records and Reports.

All records required by these rules, or necessary for the administration thereof, shall be kept, at the discretion of the utility, either within this State or in an accessible cloud-based or other electronic records retention system. These records shall be available for examination by the ORS or its authorized representatives at all reasonable hours.

### 103-330. Customer Information.

Each electrical utility shall:

a. Maintain up-to-date maps, plans, or records of its entire transmission and distribution systems, with such other information as may be necessary to enable the electrical utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving customers within its operating area.

b. Provide to each new residential and small commercial customer, within sixty days of application for service, a clear and concise explanation of the available rate schedules for the class of service for which the customer makes application for service.

c. Provide to each residential and small commercial customer to whom more than one rate schedule is reasonably available a clear and concise summary of the existing rate schedules applicable to the customer's class of service at least once a year.

d. Notify each affected customer of any proposed adjustment in rates and charges, excluding adjustment of base rates for fuel costs within sixty days of the date of the filing of such adjustment or as otherwise directed by the commission.

e. Provide to each customer, upon request, a clear and concise statement of the actual consumption of electrical energy by such customer for the previous twelve months.

f. Post a notice in a conspicuous place on the utility's website and in each local office of the electrical utility where applications for service are received, informing the public that copies of the rate schedules and rules relating to the service of the electrical utility, as filed with and approved by the commission, are available for inspection or download.

g. Upon request, inform its customers as to the method of reading meters, as to billing procedures and shall assist customers in selecting the most economical rate schedule applicable and method of metering the service, except as otherwise provided for by the commission.

h. Provide adequate means (telephone, etc.) whereby each customer can contact the electrical utility or its authorized representative at all hours in cases of emergency or unscheduled interruptions of service.

i. Upon request, give its customers such information and assistance as is reasonable in order that customers may secure safe and efficient service.

j. Notify any person making a complaint recorded pursuant to 103-345 that the electrical utility is under the jurisdiction of the commission and the customer may notify the ORS of the complaint.

### 103-331. Customer Deposits.

A. Each electrical utility may require from any customer or from any prospective customer, a deposit intended to guarantee payment of bills for service, if any of the following conditions exist:

1. The customer's past payment record to an electrical utility shows delinquent payment practice, i.e., customer has had two consecutive thirty-day arrears, or more than two non-consecutive thirty-day arrears in the past twenty-four months, or

2. A new customer cannot demonstrate that he is a satisfactory credit risk by appropriate means including, but not limited to, a letter of good credit from an electrical utility, references which may be quickly and inexpensively checked by the Company or cannot furnish an acceptable cosigner or guarantor on the same system within the State of South Carolina to guarantee payment up to the amount of the maximum deposit, or

3. A customer has no deposit and presently is delinquent in payments, i.e., has had two consecutive thirty-day arrears, or more than two non-consecutive thirty-day arrears in the past twenty-four months, or

4. A customer has had his service terminated for non-payment or fraudulent use, or

5. A non-residential customer or its parent company is experiencing financial difficulties as determined by an electrical utility using its respective internal credit risk rating criteria (even if the customer has not yet defaulted or caused a default on a payment obligation to the utility) and has not negotiated an alternative payment plan designed to mitigate the utility's risk of loss. All electrical utilities engaging in negotiated payment solutions must provide a copy of their respective internal credit risk rating criteria upon request by the Office of Regulatory Staff.

B. If the electrical utility elects to require a deposit under Subsection (A)(5) of this Rule, then the electrical utility shall inform the affected customer of the provisions of this Rule.

C. For non-residential customers, the electrical utility may use a variety of security options other than the payment of a two-month cash deposit, including but not limited to accelerated payment plans, surety bonds, bank letters of credit or some combination of the above.

#### 103-333. Interest on Deposits.

A. Simple interest on deposits at the current effective interest rate per annum prescribed by order of the Public Service Commission shall be paid by the electrical utility to each customer required to make such deposit for the time it is held by the electrical utility, provided that no interest need be paid unless the deposit is held longer than six months.

B. The interest shall be accrued annually and payment of such interest shall be made to the customer at least every two years or less and at the time the deposit is returned.

C. The deposit shall cease to draw interest on the date it is returned, on the date service is terminated, or on the date notice is sent that the deposit is no longer required to the customer's last known address, by bill insert, or by the notice method selected by the electrical utility customer and maintained in the customer's records at the electrical utility.

#### 103-339. Customer Billing.

The electrical utility shall bill each customer as promptly as possible following the reading of the meter and render a receipt of payment upon request.

1. New Service. Meters shall be read at the initiation and termination of any service and billing shall be based thereon.

2. Bill Forms. The bill shall show:



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- a. The reading of the meter at the beginning and at the end of the period for which the bill is rendered.
- b. The date on which the meter was read, and the date of billing and the latest date on which it may be paid without incurring a penalty, and the method of calculating such penalty.
- c. The number and kind of units metered.
- d. The applicable rate schedule, or identification of the applicable rate schedule. If the actual rates are not shown, the bill shall carry a statement to the effect that the applicable rate schedule will be furnished on request.
- e. Any estimated usage shall be clearly marked with the word “estimate” or “estimated bill”.
- f. Any conversions from meter reading units to billing units or any information necessary to determine billing units from recording or other devices, or any other factors used in determining the bill. In lieu of such information on the bill, a statement must be on the bill advising that such information can be obtained by contacting the electrical utility’s local office.
- g. Amount for electrical usage (base rate).
- h. Amount of South Carolina Sales Tax (dollars and cents).
- i. Total amount due.
- j. Number of days for which bill is rendered or beginning and ending dates for the billing period.
- k. The telephone number and email address of the Office of Regulatory Staff.

3. Late Payment Charges. A charge of no more than one and one-half percent (1 1/2 %) may be added to any unpaid balance not paid within twenty-five days of the billing date to cover the cost of collection and carrying accounts in arrears. This method of late-payment charge will be made in lieu of any other penalty.

4. Payment. The electrical utility, at its option for good cause, may refuse to accept a check, debit card, credit card or other electronic payment tendered as payment on a customer’s account. “Good cause” must be justified by an electrical utility by evidencing a credit history problem or by evidencing insufficient funds of the utility customer or applicant.

5. Charges for Discontinuance and Reconnection. Whenever service is turned off for violation of rules and regulations, nonpayment of bills, or fraudulent use of service, the electrical utility may make reasonable charges, to be approved by the commission, for the cost incurred in discontinuing the service and reconnection and require payment for service billed and for service used which has not previously been billed.

6. Estimated Bills. Each electrical utility shall not send a customer an estimated bill, except for a good cause, where the meter could not be read or was improperly registering. In no instance will more than one estimated bill be rendered within a sixty-day period, unless otherwise agreed to by the customer.

### 103-340. Adjustment of Bills.

If it is found that an electrical utility has directly or indirectly, by any device whatsoever, demanded, charged, collected or received from any customer a greater or lesser compensation for any service rendered or to be rendered by such electrical utility than that prescribed in the schedules of such electrical utility applicable thereto, then filed in the manner provided in Chapter 27 of Title 58 of the South Carolina Code of Laws; or if it is found that any customer has received or accepted any service from an electrical utility for a compensation greater or lesser than that prescribed in such schedules; or if, for any reason, billing error has resulted in a greater

or lesser charge than that incurred by the customer for the actual service rendered, then the method of adjustment for such overcharge or undercharge shall be as provided by the following:

1. Fast or Slow Meters. If the overcharge or undercharge is the result of a fast or slow meter, then the method of compensation shall be as follows:

a. In case of a disputed account, involving the accuracy of a meter, such meter shall be tested upon request of the customer, as specified in 103-370(2).

b. In the event that the meter so tested is found to have an error in registration of more than two (2) per cent, the bills will be increased or decreased accordingly, but in no case shall such a correction be made for more than sixty (60) days.

2. Customer Willfully Overcharged. If the electrical utility has willfully overcharged any customer, except as provided for in 1 of this rule, then the method of adjustment shall be as provided in S. C. Code Ann. Section 58-27-960 and Section 58-27-2410 et seq. (1976) and as stated in the South Carolina Code of Laws Section 34-31-20(A) or such future Code of Laws of South Carolina governing the legal rate of interest of cases of accounts stated and in all cases where any sum or sums of money shall be ascertained and shall draw interest according to law.

3. Customer Inadvertently Overcharged. If the electrical utility has inadvertently overcharged a customer as a result of a misapplied schedule, an error in reading the meter, a skipped meter reading, or any other human or machine error, except as provided in 1 of this rule, the electrical utility shall, at the customer's option, credit or refund the excess amount paid by that customer or credit the amount billed as provided by the following:

a. If the interval during which the customer was overcharged can be determined, then the electrical utility shall credit or refund the excess amount charged during that entire interval provided that the applicable statute of limitations shall not be exceeded.

b. If the interval during which the customer was overcharged cannot be determined then the electrical utility shall credit or refund the excess amount charged during the twelve-month period preceding the date when the billing error was discovered.

c. If the exact usage and/or demand incurred by the customer during the billing periods subject to adjustment cannot be determined, then the refund shall be based on an appropriate estimated usage and/or demand.

4. Customer Undercharged Due to Willfully Misleading Company. If the electrical utility has undercharged any customer as a result of a fraudulent or willfully misleading action of that customer, or any such action by any person (other than the employees or agents of the electrical utility), such as tampering with, or bypassing the meter when it is evident that such tampering or bypassing occurred during the residency of that customer, or if it is evident that a customer has knowledge of being undercharged without notifying the electrical utility as such, then notwithstanding 1 of this rule, the electrical utility shall recover the deficient amount provided as follows:

a. If the interval during which the customer was undercharged can be determined, then the electrical utility shall collect the deficient amount incurred during that entire interval, provided that the applicable statute of limitations is not exceeded.

b. If the interval during which the customer was undercharged cannot be determined, then the electrical utility shall collect the deficient amount incurred during the twelve-month period preceding the date when the billing error was discovered by the electrical utility.

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c. If the usage and/or demand incurred by that customer during the billing periods subject to adjustment cannot be determined, then the adjustment shall be based on an appropriate estimated usage and/or demand.

d. If the metering equipment has been removed or damaged, then the electrical utility shall collect the estimated cost of repairing and/or replacing such equipment.

5. Equal Payment Plans. An electrical utility may provide payment plans wherein the charge for each billing period is the estimated total annual bill divided by the number of billing periods prescribed by the plan. However, any incorrect billing under equal payment plans shall be subject to this rule.

6. Customer Undercharged Due to Human or Machine Error. If the electrical utility has undercharged any customer as a result of a misapplied schedule, an error in reading the meter, a skipped meter reading, or any human or machine error, except as provided in 1, 2 and 4 of this rule then the electrical utility may recover the deficient amount as provided as follows:

a. If the interval during which a consumer having a demand of less than 50 KW was undercharged can be determined, then the electrical utility may collect the deficient amount incurred during that entire interval up to a maximum period of six months. For a consumer having a demand of 50 KW or greater, the maximum period shall be twelve months.

b. If the interval during which a consumer was undercharged cannot be determined, then the electrical utility may collect the deficient amount incurred during the six-month period preceding the date when the billing error was discovered by the electrical utility. For a consumer having a demand of 50 KW or greater, the maximum period shall be twelve months.

c. The customer shall be allowed to pay the deficient amount, in equal installments added to the regular monthly bills, over the same number of billing periods which occurred during the interval the customer was subject to pay the deficient amount.

d. If the usage and/or demand incurred by that person during the billing periods subject to adjustment cannot be determined, then the adjustment shall be based on an appropriate estimated usage and/or demand.

### 103-352. Procedures for Termination of Service.

Prior to the termination of electric service pursuant to R.103-342 e.-m., the following procedures shall be employed by the electrical utility.

a. Not less than ten (10) days prior to termination of service, the electrical utility shall mail a notice of termination to the affected customer. The notice of termination of service shall include, as a minimum, the following information:

1. Address, telephone number and working hours of the person(s) to be contacted by the customer for the arrangement of a personal interview with an employee of the electrical utility with the authority to accept full payment or make other payment arrangements.

2. The total amount owed by the customer for electrical services rendered, the date and amount of the last payment and the date by which the customer must either pay in full the amount outstanding or make satisfactory arrangements for payment by installments of such amount.

### 3. Special Needs Customers.

a. A statement that service to a residential customer who qualifies as a special needs account customer shall only be terminated in accordance with S.C. Code Ann. Section 58-27-2510 et. seq., as amended. All electrical utilities shall publish their procedures for termination of service on their websites.

b. The statement that service to a residential customer during the months of December through March will not be terminated where such customer, or a member of the customer's household at the premises to which service is rendered, can furnish to the utility, no less than (3) days prior to termination of service or to the terminating crew at time of termination, a certificate on a form provided by the utility and signed by a licensed physician, that termination of electric service would be especially dangerous to such person's health. Such certificate must be signed by the customer and state that such customer is unable to pay by installments. A certification shall expire on the thirty-first day from the date of execution by the physician. Such certification may be renewed no more than three (3) times for an additional thirty (30) day period each. Upon renewal of the certification, the electrical utility shall advise the customer that he may wish to call the local social service agency to determine what public or private assistance may be available to the customer.

4. The availability of investigation and review of any unresolved dispute by the ORS Staff and include the ORS's toll free telephone number.

b. Not more than two business days prior to termination of service, the electrical utility shall make reasonable efforts either by telephone or in person to contact the customers that are subject to termination of service to notify the customer that the customer's service is subject to termination for non-payment. Alternatively, not more than three business days prior to termination of service, the electrical utility shall notify the customer by mail that the customer is subject to termination of service for non-payment. The electrical utility shall maintain records of the efforts made to contact such customers. Termination of service may be delayed in case of inclement weather, emergencies or operational conflicts.

c. The electrical utility shall provide for the arrangement of a deferred payment plan to enable a residential customer to make payment by installments where such customer is unable to pay the amount due for electrical service. The deferred payment plan shall require the affected customer to maintain the customer's account current and pay not less than 1/6 of the outstanding balance for a period not to exceed six months. The outstanding balance may include the late payment charge authorized by regulation 103-339(3). Service to such customer shall not be terminated unless the electrical utility has informed the customer that such deferred payment plan is available. Any agreement to extend or defer a payment cut off date by more than five work days is a deferred payment plan. If a customer fails to conform to the terms and conditions of such deferred payment plan, the electrical utility may terminate service upon three days written notice, if personally delivered, or upon five days notice by mail.

d. If a residential customer informs the electrical utility that the customer is unable to make payment in full on the customer's account or to make arrangements for the satisfaction of the balance of the customer's account through a deferred payment plan, the electrical utility shall advise the customer that the customer may wish to call the local social service agency to determine what public or private assistance may be available to the customer.

e. The electrical utility shall maintain a record of all deferred payment plans established with customer subject to termination for a period of two years.

f. The electrical utility shall provide a copy of the termination notice to any third party identified by the customer upon establishment of the service account or at any time thereafter.

g. Electric service maybe terminated only on Monday through Thursday between the hours of 8:00 a.m. and 4:00 p.m., unless provisions have been made for the availability of the acceptance of payment and the reconnection of service. Electric service may not be terminated on the day preceding any day on which the electric utility's collection offices are closed, unless provisions have been made for the availability of the

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acceptance of payment and the reconnection of service. All employees of electrical utilities assigned to terminate service shall be authorized to accept payment from customers subject to termination of service or in lieu thereof, at the electrical utility's option, allow such customer at least one full working day beyond the initial date set for termination the opportunity to make satisfactory arrangements on the account at the offices of the electrical utility; provided, however, that in certain areas where it has been determined by the electrical utility that the safety of its employees warrants it, those employees shall not be required to accept payments from customers subject to termination.

### 103-370. Electrical Utility Inspection and Tests.

Each electrical utility shall make such tests as are prescribed under these rules with such frequency and in such manner and at such places as is herein provided or requested by the ORS or as may be approved or ordered by the commission.

1. All electric meters shall be tested and calibrated under the applicable periodic or sample testing plan as prescribed by the American National Standards Institute (ANSI) Standard C12 - Code for Electricity Metering. Results from sample-tested meters shall be communicated to the ORS on an annual basis.

#### 2. Meter Testing on Request of Customers.

A. Each electrical utility shall, at any time (when requested in writing by a customer) upon reasonable notice, test the accuracy of the meter in use by the customer.

B. No deposit or payment shall be required from the customer for such meter test except when a customer requests a meter test within one year after date of installation or the last previous test of a meter, in which case the customer shall be required upon request by the electrical utility to deposit the estimated cost of the test, but not to exceed \$15.00 without approval of the commission. The amount so deposited with the electrical utility shall be refunded or credited to the customer, if the meter is found, when tested, to register more than 2% fast or slow, otherwise the deposit shall be retained by the electrical utility.

C. A customer may request to be present when the electrical utility conducts the test on the customer's meter, or if the customer desires, may send a representative appointed by the customer. The electrical utility shall honor such request.

D. A report giving the name of the customer requesting the test; the date of the request; the location of the premises where the meter has been installed; the type, make, size, and serial number of the meter; the date of removal; the date tested; and the result of the test shall be kept by the electrical utility.

### 103-392. Safety Program.

Each electrical utility shall adopt and execute a safety program, fitted to the size and type of its operations. As a minimum, the safety program should:

a. Require employees to use suitable tools and equipment in order that they may perform their work in a safe manner.

b. Instruct employees in safe methods of performing their work.

c. Instruct employees who, in the course of their work, are subject to the hazard of electrical shock, asphyxiation, or drowning, in accepted methods of artificial respiration.

d. Establish liaison with appropriate public officials, including fire and police officials in anticipation of a potential emergency.

e. Establish an educational program to enable customers and the general public to recognize and report an electrical emergency to the appropriate officials.

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

Changes to Article 3, Electric Systems Regulations are needed to update and to include current utility operations and practices, increase efficiency and transparency, to correct misspelled words, and to incorporate gender neutral references.

Document No. 5178  
**PUBLIC SERVICE COMMISSION**  
 CHAPTER 103  
 Statutory Authority: 1976 Code Sections 58-3-140 and 58-5-210

- 103-402. Definitions.
- 103-410. Location of Records and Reports.
- 103-430. Customer Information.
- 103-431. Customer Deposits.
- 103-433. Interest on Deposits.
- 103-436. Deposit Retention.
- 103-439. Customer Billing.
- 103-440. Adjustment of Bills.

**Synopsis:**

The Public Service Commission of South Carolina Staff began conducting its formal review of all its regulations under S.C. Code Ann. Section 1-23-120(J) when it opened Docket No. 2020-247-A on Wednesday, October 14, 2020. The Commission Staff, after it opened Docket No. 2020-247-A, provided the opportunity for interested stakeholders to recommend changes to the Commission’s Article 4, Gas Systems Regulations via written comments and oral comments at its publicly noticed workshops.

Section-by-Section Discussion:

Section	Type of Change	Purpose
103-402.	Amendment/Revision	Amended to add definitions for local office or business office and for mail
103-410.	Amendment/Revision	Amended to require all records be maintained by a utility under Chapter 103, Article 4 either within South Carolina or in an accessible cloud-based or other electronic records retention system and be available for inspection by the Office of Regulatory Staff or its authorized representatives

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103-430.	Amendment/Revision	Amended to allow posting of utilities' rate schedules on the utility's website and in each local office and to include gender-neutral references
103-431.	Amendment/Revision	Amended to allow utilities to require a customer deposit from a non-residential customer and to allow the gas utility to use a variety of security options other than the payment of a two-month cash deposit and amended to require that the gas utility only notify non-residential customers of the provisions of Regulation 103-431, if the gas utility requires a customer deposit from the non-residential customer and to include gender-neutral references
103-433.	Amendment/Revision	Amended to clarify when interest on deposits ceases and the mode to communicate to the customer the cessation of interest on the deposit.
103-436.	Amendment/Revision	Amended to state when a utility is not required to refund a deposit to a non-residential customer.
103-439.	Amendment/Revision	Amended to state the utility bill form shall show the Office of Regulatory Staff's telephone number and email address
103-440.	Amendment/Revision	Amended to correct a misspelled word; amended to require interest to be paid when a customer is willfully overcharged as provided in S.C. Code Ann. Section 34-31-20(A) and to delete the requirement that the difference between the actual and estimated annual bill is to be resolved by one payment at the end of the equal payment plan year; and amended to include permissive language

The Notice of Drafting was published in the *State Register* on November 25, 2022.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

## 103-402. Definitions.

The following words and terms, when used in these rules, shall have the meaning indicated:

1. Commission. "Commission" means the Public Service Commission of South Carolina.
2. Consolidated Political Subdivision. A "consolidated political subdivision" means that it exists pursuant to the Constitution of this State, and shall not be deemed a city, town, county, special purpose district or other governmental unit merged thereinto.
3. Customer. "Customer" means any person, firm, association, establishment, partnership or corporation, or any agency of the Federal, State, or local government, being supplied with gas service by a gas utility under the jurisdiction of this commission.
4. Gas. "Gas" or "Natural Gas" means either natural gas unmixed, or any mixture of natural and manufactured gas, including but not limited to, synthetic natural gas and liquefied petroleum.
5. Gas Service. "Gas Service" means those functions performed by a gas utility for its customers, including the purchase and/or manufacture of gas, storage of gas, transportation and delivery of gas to the customer.
6. Gas System. "Gas System" includes any gas utilities operating within this State, including gas authorities, municipalities, public service districts and other political subdivisions of this State insofar as they are within the jurisdiction of the commission for regulation of safety standards and conditions, pursuant to S. C. Code Ann. Section 58-5-920(f) (1976).
7. Gas Utility. "Gas Utility" includes every privately-owned corporation, firm or person furnishing or supplying gas service to the public, or any portion thereof, for compensation. Provided, however, this term shall not include any gas utility owned or operated by any municipality or agency thereof; nor shall it include any gas utility owned or operated by any gas authority specifically exempted by statute from the jurisdiction of the commission.
8. Municipality. "Municipality" includes a city, town, county, township and any other corporation existing, created or organized as a governmental unit under the Constitution and Laws of this State.
9. ORS. "ORS" means the Office of Regulatory Staff.
10. PHMSA. Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation ("DOT").
11. Rate. "Rate" when used in these Rules and Regulations means and includes every compensation charge, toll, rental, and classification, or any of them, demanded, observed, charged or collected by any gas utility for any gas service offered by it to the public, and any rules, regulations, practices or contracts affecting any such compensation, charge, toll, rental or classification.
12. Local Office or Business Office. These terms mean that in the event a gas utility operates a local office or business office set forth in this article, then the gas utility shall comply with the requirements of the section or subsection of the regulation addressing such local office or business office. In the event the utility does not operate a local office or business office, the section or subsection of the regulation does not apply to the gas utility.
13. Mail. The term "mail" means a communication sent by U.S. Mail or the notice method selected by the gas utility customer and maintained in the customer's records at the gas utility.



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### 103-410. Location of Records and Reports.

All records required by these rules or necessary for the administration thereof, shall be kept, at the discretion of the utility, either within this State or in an accessible cloud-based or other electronic records retention system. These records shall be available for examination by the ORS or its authorized representatives at all reasonable hours.

### 103-430. Customer Information.

Each gas utility shall:

a. Maintain up-to-date maps, plans, or records of its entire transmission and distribution systems, with such other information as may be necessary to enable the gas utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving customers within its operating area.

b. Notify each affected customer in writing, as prescribed by the commission, of any proposed change in rates and charges. Unless the commission orders otherwise, this notice requirement shall not apply to Purchased Gas Adjustments, Curtailment Adjustments, and Exploration Adjustments. Certification that the above notice requirement has been met shall be furnished to the commission and ORS by the gas utility.

c. Post a notice in a conspicuous place on the utility's website and in each local office of the gas utility where applications for service are received, informing the public that copies of the rate schedules and rules relating to the service of the gas utility, as approved by the commission, are available for inspection at the gas utility or for download.

d. Upon request, inform its customers as to the method of reading meters, as to billing procedures, and shall assist customers in selecting the most economical rate schedule applicable and method of metering the service, except as otherwise provided for by the commission.

e. Each gas system shall provide adequate means (telephone, etc.) whereby each customer can contact the gas system or authorized representative at all hours in cases of emergency or unscheduled interruptions of service.

f. Each gas utility shall, upon request, give its customers such information and assistance as is reasonable and proper in order that customers may secure safe and efficient service.

g. Notify any customer making a complaint recorded pursuant to regulation 103-445, that the gas utility is under the jurisdiction of the commission and the customer may notify the commission and ORS of the customer's complaint.

h. Notify each affected customer of the possibility and degree of anticipated seasonal natural gas curtailments. Such notification shall be sent by the gas utility to its customers as soon as the gas utility becomes aware of the possible imposition of any curtailment. The ORS shall be informed by the gas utility whenever such notification has been given to its customers.

### 103-431. Customer Deposits.

A. Each gas utility may require from any customer or from any prospective customer, a deposit intended to guarantee payment of bills for service, if any of the following conditions exist:

1. The customer's past payment record to a gas utility shows delinquent payment practice, i.e., customer has had two consecutive thirty-day arrears, or more than two non-consecutive thirty-day arrears in the past twenty-four months, or

2. A new customer cannot demonstrate that he is a satisfactory credit risk by appropriate means including, but not limited to, letters of good credit from a utility, or references which may be quickly and inexpensively checked by the Company or cannot furnish an acceptable cosigner or guarantor on the same system within the state of South Carolina to guarantee payment, up to the amount of the maximum deposit, or

3. A customer has no deposit and presently is delinquent in payments, i.e., has had two consecutive thirty-day arrears, or more than two non-consecutive thirty-day arrears in the past twenty-four months, or

4. A customer has had the customer's service terminated for non-payment or fraudulent use.

5. A non-residential customer or its parent company is experiencing financial difficulties as determined by a gas utility using its respective internal credit risk rating criteria (even if the customer has not yet defaulted or caused a default on a payment obligation to the utility) and has not negotiated an alternative payment plan designed to mitigate the utility's risk of loss. The gas utility may use a variety of security options other than the payment of a two-month cash deposit, including but not limited to, accelerated payment plans, surety bonds, bank letters of credit or some combination of the above. All gas utilities engaging in negotiated payment solutions must provide a copy of their respective internal credit risk rating criteria upon request by the Office of Regulatory Staff.

B. If the gas utility elects to require a deposit under Subsection (A)(5) of this Rule, then the gas utility shall inform the affected customer of the provisions of this Rule.

#### 103-433. Interest on Deposits.

A. Simple interest on deposits at the rate of the current effective interest rate per annum prescribed by Order of the South Carolina Public Service Commission shall be paid by the gas utility to each customer required to make such deposit for the time it is held by the gas utility, provided that no interest need to be paid unless the deposit is held longer than six months.

B. The interest shall be accrued annually and payment of such interest shall be made to the customer every two years or less and at the time the deposit is returned.

C. The deposit shall cease to draw interest on the date it is returned, on the date service is terminated, or on the date notice is sent that the deposit is no longer required to the customer's last known address, by bill insert, or by the notice method selected by the gas utility customer and maintained in the customer's records at the gas utility.

#### 103-436. Deposit Retention.

A. Deposits shall be refunded completely with interest after two years unless the customer has had two consecutive thirty-day arrears, or more than two non-consecutive thirty-day arrears, in the past twenty-four months.

B. A gas utility shall not be required to refund the deposit if a non-residential customer or its parent company is experiencing financial difficulties as determined by a gas utility using its respective internal credit risk rating criteria and/or if bankruptcy may be imminent, even though the customer continues to make billed payments in a timely manner.

#### 103-439. Customer Billing.

The gas utility shall bill each customer as promptly as practicable following the reading of the meter and render a receipt of payment upon request.

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1. New Service. Meters shall be read at the initiation and termination of any service and billing shall be based thereon.

2. Bill Forms. The bill shall show:

- a. The reading of the meter at the beginning and at the end of the period for which the bill is rendered.
- b. The date on which the meter was read, and the date of billing and the latest date on which it may be paid without incurring a penalty and the method of calculating such penalty.
- c. The number and kind of units metered.
- d. The applicable rate schedule, or identification of the applicable rate schedule. If the actual rates are not shown, the bill should carry a statement to the effect that the applicable rate schedule will be furnished on request.
- e. Any estimated usage shall be clearly marked with the word “estimate” or “estimated bill”.
- f. Any conversions from meter reading units to billing units or any information necessary to determine billing units from recording or other devices, or any other factors, such as BTU adjustments, used in determining the bill. In lieu of such information on the bill, a statement must be on the bill advising that such information can be obtained by contacting the gas utility’s local office.
- g. Amount for gas usage.
- h. Amount of South Carolina Sales Tax (dollars and cents).
- i. Total amount due.
- j. Number of days for which bill is rendered or beginning and ending dates for the billing period.
- k. The telephone number and email address of the Office of Regulatory Staff.

3. Late Payment Charges. A charge of no more than one and one-half percent (1 1/2 %) may be added to any unpaid balance not paid within twenty-five days of the billing date to cover the cost of collection and carrying accounts in arrears. This method of late-payment charge will be made in lieu of any other penalty.

4. Payment. The gas utility, at its option for good cause, may refuse to accept a check, debit card, credit card or other electronic payment tendered as payment on a customer’s account. “Good cause” must be justified by a gas utility by evidencing a credit history problem or by evidencing insufficient funds of the utility customer or applicant.

5. Charges for Discontinuance and Reconnection. Whenever service is turned off for violation of rules or regulations, non-payment of bills or fraudulent use of service, the gas utility may make a reasonable charge, to be approved by the commission, for the cost incurred in discontinuing the service and reconnection and require payment for service billed and for service used which has not previously been billed.

6. Estimated Bills. Each gas utility shall not send a customer an estimated bill except for good cause where the meter could not be read or was improperly registering. No more than one estimated bill shall be rendered within a sixty day period, unless otherwise agreed to by the customer.

103-440. Adjustment of Bills.

If it is found that a gas utility has directly or indirectly, by any device whatsoever, demanded, charged, collected or received from any customer a greater or less compensation for any service rendered or to be rendered by such gas utility than that prescribed in the schedules of such gas utility applicable, thereto then filed in the manner provided in Title 58 of the South Carolina Code of Laws or if it is found that any customer has received or accepted any service from a gas utility for a compensation greater or less than that prescribed in such schedules; or if, for any reason, billing error has resulted in a greater or lesser charge than that incurred by the customer for the actual service rendered, then the method of adjustment for such overcharge or undercharge shall be as provided by the following:

1. Fast or Slow Meters. If the overcharge or undercharge is the result of a fast or slow meter, then the method of compensation shall be as follows:

a. In case of a disputed account, involving the accuracy of a meter, such meter shall be tested upon request of the customer, as specified in regulation 103-472.

b. In the event that the meter so tested is found to have an error in registration of more than two percent, the bill shall be increased or decreased accordingly, if the time at which the error first developed or occurred can be definitely determined. If such time cannot be determined, such correction shall not be made for more than six months.

2. Customer Willfully Overcharged. If the gas utility has willfully overcharged any customer, except as provided for in 1 of this rule, then the method of adjustment shall be as stated in the South Carolina Code of Laws Section 34-31-20(A) or such future Code of Laws of South Carolina governing the legal rate of interest of cases of accounts stated and in all cases where any sum or sums of money shall be ascertained and shall draw interest according to law.

3. Customer Inadvertently Overcharged. If the gas utility has inadvertently overcharged a customer as a result of a misapplied schedule, an error in reading the meter, a skipped meter reading, or any other human or machine error except as provided in 1 of this rule, the gas utility shall at the customer's option credit or refund the excess amount paid by that customer or credit the amount billed as prescribed by the following:

a. If the interval during which the customer was overcharged can be determined, then the gas utility shall credit or refund the excess amount charged during that entire interval, provided that the applicable statute of limitations shall not be exceeded.

b. If the interval during which the customer was overcharged cannot be determined then the gas utility shall credit or refund the excess amount charged during the twelve month period preceding the date when the billing error was discovered.

c. If the exact usage and/or demand incurred by the customer during the billing periods subject to adjustment cannot be determined then the refund shall be based on an appropriate estimated usage and/or demand.

4. Customer Undercharged Due to Wilfully Misleading Company. If the gas utility has undercharged any customer as a result of a fraudulent or wilfully misleading action of that customer, or any such action by any person (other than the employees or agents of the company), such as tampering with, or bypassing the meter when it is evident that such tampering or bypassing occurred during the residency of that customer, or if it is evident that a customer has knowledge of being undercharged without notifying the gas utility as such, then notwithstanding 1 of this rule, the gas utility shall recover the deficient amount provided as follows:

a. If the interval during which the customer was undercharged can be determined, then the gas utility shall collect the deficient amount incurred during that entire interval, provided that the applicable statute of limitations is not exceeded.

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b. If the interval during which the customer was undercharged cannot be determined, then the gas utility shall collect the deficient amount incurred during the twelve-month period preceding the date when the billing error was discovered by the gas utility.

c. If the usage and/or demand incurred by the customer during the billing periods subject to adjustment cannot be determined, then the adjustment shall be based on the appropriate estimated usage and/or demand.

d. If the metering equipment has been removed or damaged, then the gas utility shall collect the estimated cost of repairing and/or replacing such equipment.

5. Equal Payment Plans. A gas utility may provide equal payment plans, wherein the charge for each billing period is the estimated total annual bill divided by the number of billing periods prescribed by the plan. However, any incorrect billing under equal payment plan shall be subject to the first paragraph of this rule.

6. Customer Undercharged Due to Human or Machine Error. If the gas utility has undercharged any customer as a result of a misapplied schedule, an error in reading the meter, a skipped meter reading, or any human or machine error, except as provided in 1 and 2 of this rule above, then the gas utility may recover the deficient amount as provided as follows:

a. If the interval during which a customer was undercharged can be determined, then the gas utility may collect the deficient amount incurred during that entire interval up to a maximum period of twelve months.

b. If the full interval during which a customer was undercharged cannot be determined, then the gas utility may collect only the deficient amount of that portion of the interval that can be determined up to a maximum period of twelve months.

c. The customer shall be allowed to pay the deficient amount, in equal installments added to the regular monthly bills, over the same number of billing periods which occurred during the interval the customer was subject to pay the deficient amount.

d. If the usage incurred by that customer during the billing periods subject to adjustment cannot be determined, then the adjustment shall be based on an appropriate estimated usage.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

Changes to Article 4 Gas Systems Regulations are needed to increase efficiency and to increase transparency, to recommend amendments that reflect current utility operations, and to include gender-neutral references.

Document No. 5183  
**PUBLIC SERVICE COMMISSION**  
 CHAPTER 103  
 Statutory Authority: 1976 Code Sections 58-3-140 and 58-5-210

- 103-502. Definitions.
- 103-510. Location of Records and Reports.
- 103-512. Data to be Filed with the Commission and Provided to the ORS.
- 103-531. Customer Deposits.
- 103-532. Customer Billing.
- 103-533. Adjustment of Bills.
- 103-535. Denial or Discontinuance of Service.
- 103-538. Customer Complaints.
- 103-552. Minimum Pipe Size.

**Synopsis:**

The Public Service Commission of South Carolina Staff began conducting its formal review of all its regulations under S.C. Code Ann. Section 1-23-120(J) when it opened Docket No. 2020-247-A on Wednesday, October 14, 2020. The Commission Staff, after it opened Docket No. 2020-247-A, provided the opportunity for interested stakeholders to recommend changes to the Commission’s Article 5, Sewerage Utilities Regulations via written comments and oral comments at its publicly noticed workshops.

Section-by-Section Discussion:

Section	Type of Change	Purpose
103-502.	Amendment/Revision	Amended to add definitions for local office or business office and for mail and amended to reflect proposed amended Regulation 103-823.
103-510.	Amendment/Revision	Amended to require all records be maintained by a utility under Chapter 103, Article 5 shall be available for inspection in South Carolina, unless otherwise authorized by the commission.
103-512.	Amendment/Revision	Amended to require utilities to advise the Commission and the ORS of authorized utility representatives’ email addresses and amended to delete the filing requirements for rate applications and amended to include gender neutral references.
103-531.	Amendment/Revision	Amended to allow utilities, at the utilities’ option, to require a deposit from any customer or prospective customer if the customer has had service terminated for fraudulent use; to include a gender-neutral

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		reference; and to clarify when interest on deposits ceases and the mode to communicate to the customer the cessation of interest on the deposit.
103-532.	Amendment/Revision	Amended to require the utility to render a receipt of payment to the customer upon request; to state the utility bill form shall show the Office of Regulatory Staff’s telephone number and email address; to include gender neutral references; and to add permissive language.
103-533.	Amendment/Revision	Amended to require interest to be paid when a customer is willfully overcharged as provided in S.C. Code Ann. Section 34-31-20(A) and to replace “consumer” with “customer”.
103-535.	Amendment/Revision	Amended to include references to the local Bureau of Environmental Health Services; to provide the type of communication the utility shall use prior to terminating a customer’s service; and to direct the utility to provide a copy of a termination notice to any third party with the customer’s consent.
103-538.	Amendment/Revision	Amended to delete the word “oral”.
103-552.	Amendment/Revision	Amended to change the title of this regulation and to provide each utility shall use the guidelines of the Department of Health and Environmental Control as minimum standards of good engineering practices.

The Notice of Drafting was published in the *State Register* on December 23, 2022.

**Instructions:**

Print the regulations as shown below. All other items remain unchanged.

**Text:**

103-502. Definitions.

The following words and terms, when used in these rules and regulations, shall have the meaning indicated below:

## 103-502.1. Commission.

The Public Service Commission of South Carolina.

## 103-502.2. Customer.

Any person, firm, partnership, or corporation, or any agency of the Federal, State, or Local Government, being supplied with service by a utility under the jurisdiction of this commission. Customers shall be classified for purposes of applying rates as “residential”, “commercial”, or “industrial”.

## 103-502.3. Customer Main Extension Fee.

A fee paid by a customer under a contract entered into by and between the utility and its customer providing terms for the extension of the utility’s mains to service the customer.

## 103-502.4. Customer Service Line.

The portion of pipe on the customer’s premises which transports sewerage from the customer’s premises to the “utility service line”.

## 103-502.5. Homeowners Association.

An association of lot owners located in a particular subdivision or development incorporated under the laws of this State as a non-profit corporation, including as one of its purposes, the operation of a sewerage system to serve the particular subdivision or development. Each homeowners association, prior to the commencement of operations of a sewerage system, shall file with the commission and provide a copy to the ORS (a) a certified copy of its certificate of incorporation; (b) a copy of the corporation’s bylaws; (c) a copy of any declaration of covenants, conditions and restrictions on real property in the subdivision or development filed in conjunction with the formation of the homeowners association; (d) a copy of the permit or authorization from the Department of Health and Environmental Control issued to the homeowners association to operate the system, and (e) copies of a statement signed by each lot owner disclosing that the sewerage services in the subdivision are provided by a non-profit homeowners association, in which each lot owner is a voting member, and that an appropriate assessment to meet operating expenses of the Utility must be paid by each lot owner.

## 103-502.6. Main.

A sewerage pipe owned, operated, or maintained by a utility, which is used to transport sewerage, but does not include the “utility service line”, or “customer service line”.

## 103-502.7. Premises.

A piece or tract of land or real estate, including buildings and other appurtenances thereon.

## 103-502.8. Rate.

The term “rate”, when used in these rules and regulations, means and includes every compensation, charge, toll, rental, classification, or availability fee, or any of them, including tap fee, or other non-recurring charges demanded, observed, charged, or collected by any utility for any service offered by it to the public, and any rules, regulations, practices, or contracts affecting any such compensation, charge, toll, rental, classification, or availability fee. An application for approval of any rate schedule will not be accepted for filing under S.C. Code Ann. Section 58-5-240 unless accompanied by the information specified under 103-823.

## 103-502.9. The Office of Regulatory Staff.



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The executive director and employees of the Office of Regulatory Staff.

#### 103-502.10. Tap Fee.

A non-recurring, non-refundable charge related to connecting the customer to the utility's system which includes the cost of installing the utility's service line from the main to the customer's premises and a portion of plant capacity which will be used to provide service to the new customer. Plant capacity shall be computed by using the Guide Lines for Unit Contributory Loadings to Wastewater Treatment Facilities (1972) to determine the single family equivalency rating. Any privately-owned corporation, firm, partnership, or individual empowered by contract, or otherwise, to collect a tap fee from a customer for the provision of sewerage service to that customer shall be considered a utility, and shall obtain commission approval prior to collecting tap fees, or any other rates for sewerage service. An application for approval of any rate change shall not be considered unless the filing contains appropriate exhibits setting forth all cost criteria justifying the tap fee, setting forth the portion of the tap fee related to installing the service line and the portion related to plant capacity.

#### 103-502.11. Utility.

Every person, firm, partnership, association, establishment or corporation furnishing or supplying in any manner sewerage collection and/or sewerage disposal service to the public or any portion thereof, for compensation. A "homeowners association", as defined in 5 of this rule and subject to the requirements set forth herein, upon commission order, may be found not to be a utility.

#### 103-502.12. Utility Service Line.

The portion of pipe which runs from the customer's premises to the main, and which receives sewerage from the "customer service line".

#### 103-502.13. Sewerage or Wastewater Plant.

Plant and property owned by a utility, used in its business operations of providing sewerage collection and/or sewerage disposal service to its customers.

#### 103-502.14. Local Office or Business Office.

These terms mean that in the event a sewer utility operates a local office or business office set forth in this article, then the sewer utility shall comply with the requirements of the section or subsection of the regulation addressing such local office or business office. In the event the utility does not operate a local office or business office, the section or subsection of the regulation does not apply to the sewer utility.

#### 103-502.15. Mail.

The term "mail" means a communication sent by U.S. Mail or the notice method selected by the sewer utility customer and maintained in the customer's records at the sewer utility.

#### 103-502.16. Municipality.

"Municipality" includes a city, town, county, township, and any other corporation existing, created or organized as a governmental unit under the constitution and laws of this State.

#### 103-510. Location of Records and Reports.

All records required by these rules are necessary for the administration thereof, shall be available for inspection in this State, unless otherwise specifically authorized by the commission. These records shall be available for examination by the ORS or its authorized representatives at all reasonable hours.

#### 103-512. Data to be Filed with the Commission and Provided to the ORS.

##### 103-512.1. Annual Report.

Each utility operating in the State shall file an annual report with the commission and provide a copy to the ORS giving accounting and other information as the commission orders. The commission or the ORS will provide an annual report form upon request. If the utility's books are maintained on a calendar year, the annual report must be filed on or before April 1st of each year. If the utility uses a fiscal year other than December 31st, the annual report should be filed within three months after the end of the fiscal year.

##### 103-512.2. Current Information and Documents.

The utility shall file with the commission and provide a copy to the ORS the following documents and information, and shall maintain such documents and information in a current status.

###### 103-512.2.1. Tariff.

A copy of each schedule of rates and charges for service, together with the applicable riders, including any rules and regulations, or terms and conditions describing policies and practices of rendering service shall be provided to the commission and the ORS.

###### 103-512.2.2. Special Contract Forms.

A copy of each special contract for service, including aid to construction agreements, and rate agreements shall be provided to the commission and the ORS.

###### 103-512.2.3. Customer Bill.

A copy of each type of customer bill form, which shall include the information which is normally shown on a customer's bill for service shall be provided to the ORS.

###### 103-512.2.4. Operating Area Maps.

A map of the utility's operating area. This map shall be revised and submitted to the ORS annually unless such revision is unnecessary, in which event the utility shall notify the ORS that the map on file is current. The map should show:

- (a) Location of transmission lines, pumping stations, waste treatment plants and discharge points;
- (b) Mains by size;
- (c) Service area clearly drawn on operating area map using proper surveying standards;
- (d) Names of all communities (post offices) served; and
- (e) Capacity of the system.

###### 103-512.2.5. Authorized Utility Representative.

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The utility shall advise the commission and ORS of the name, title, address, email address, and telephone number of the person who should be contacted in connection with:

- (a) General management duties;
- (b) Customer relations (complaints);
- (c) Engineering operations; and
- (d) Emergencies during non-office hours.

#### 103-512.3. Performance Bond.

Prior to operating, maintaining, acquiring, expanding or improving any utility system, for which commission approval is required, the utility shall have on file with the commission and provide a copy to the ORS a performance bond with sufficient surety using a format prescribed by the commission.

##### 103-512.3.1. Amount of Bond.

The amount of bond shall be based on, but not limited to, the total amount of the following categories of expenses for twelve months: Operation and Maintenance Expenses, General and Administrative Expenses, Taxes Other Than Income Taxes, Income Taxes, and Debt Service including Interest Expenses. The minimum amount of the bond shall be \$100,000 and the maximum amount of the bond shall be \$350,000 based on the verified expenses of the utility for the preceding twelve-month period. A bond shall be required for each water and wastewater provider under the jurisdiction of the Public Service Commission. A certification that the face amount of the bond on file with the commission complies with the provisions of 103-512.3.1 of this rule shall be filed with the annual report required by 103-512.1 of this rule. The ORS shall review the annual reports and certifications and determine whether the present bond of the utility accurately reflects the expenses of the utility. Based upon the expenses of the utility as submitted in the annual report and as reviewed and adjusted by the ORS, the ORS shall make recommendations for increasing or reducing the amount of the bond within the minimum and maximum limits as prescribed by statute.

##### 103-512.3.2. Sureties.

Sufficient surety may be any duly licensed bonding or insurance company authorized to do business in this State. A corporate surety, other than such a bonding or insurance company, shall not be considered sufficient surety. Sufficient surety may be any individual, a stockholder, partner, sole owner, etc., in the utility, so long as the individual surety's net worth is at least twice the face amount of the performance bond.

##### 103-512.3.3. Financial Statement.

Upon order of the commission, when any individual acts as surety, the individual shall file with the commission and provide a copy to the ORS annually a financial statement verified by said surety showing the individual surety's personal assets, liabilities, and net worth. The commission may accept a verification of the financial statement in a format prescribed by the commission, including third-party verification.

#### 103-531. Customer Deposits.

Each utility may require from any customer or from any prospective customer, a deposit intended to guarantee payment of bills for service, if any of the following conditions exist:

- (a) The customer's past payment record to a sewerage utility shows delinquent payment practice, i.e., has had two consecutive 30-day arrears, or more than two non-consecutive 30-day arrears in the past 24 months, or

(b) A new customer cannot furnish either a letter of good credit from a reliable source or an acceptable cosignor to guarantee payment, or

(c) A customer has no deposit and presently is delinquent in payments (i.e., has had two consecutive 30-day arrears, or more than two non-consecutive 30-day arrears, in the past 24 months), or

(d) A customer has had their service terminated for nonpayment or fraudulent use.

103-531.1. Amount of Deposit.

A. A maximum deposit may be required up to an amount equal to an estimated two (2) months (60 days) bill for a new customer or a maximum deposit may be required up to an amount equal to the total actual bills of the highest two (2) consecutive months based on the experience of the preceding twelve (12) months or portion of the year, if on a seasonal basis.

B. All deposits may be subject to review based on the actual experience of the customer. The amount of the deposit may be adjusted upward or downward to reflect the actual billing experience and payment habits of the customer.

103-531.2. Interest on Deposits.

A. Simple interest on deposits at the rate as determined by commission Order shall be paid by the utility to each customer required to make such deposit for the time it is held by the utility, provided that no interest need be paid unless the deposit is held longer than six months.

B. The interest shall be accrued annually and payment of such interest shall be made to the customer at least every two (2) years and at the time the deposit is returned.

C. The deposit shall cease to draw interest on the date it is returned, on the date service is terminated, or on the date notice is sent the deposit is no longer required to the customer's last known address, by bill insert, or by the notice method selected by the sewer utility customer and maintained in the customer's records at the sewer utility.

103-531.3. Deposit Records.

Each utility shall keep a record to show:

- (a) The name and address of each depositor;
- (b) The amount and date of the deposit; and
- (c) Each transaction concerning the deposits.

103-531.4. Deposit Receipt.

Each utility shall issue a receipt of deposit to each customer from whom a deposit is received, and shall provide means whereby a depositor may establish the customer's claim if the customer's receipt is lost.

103-531.5. Deposit Retention.

Deposits shall be refunded completely with interest after two years unless the customer has had two consecutive 30-day arrearages or more than two non-consecutive 30-day arrearages in the past 24 months.

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### 103-531.6. Unclaimed Deposits.

A record of each unclaimed deposit must be maintained for at least one year during which time the sewerage utility shall make a reasonable effort to return the deposit. Unclaimed deposits, together with accrued interest, shall be turned over to the South Carolina State Treasurer as prescribed by law.

### 103-531.7. Deposit Credit

Where a customer has been required to make a deposit, this shall not relieve the customer of the obligation to pay the service bills when due. Where such deposit has been made and service has been discontinued for reason of nonpayment of bill, a utility shall apply the deposit of such customer toward the discharge of the customer's account, and shall as soon thereafter as practicable, refund the customer any excess of the deposit. If, however, the customer whose service has been disconnected for nonpayment, pays the arrears on his account within 72 hours after service has been disconnected, and applies for reconnection, the utility may not charge an additional deposit except under the provisions of R.103-531.1.

### 103-532. Customer Billing.

The utility shall bill each customer as promptly as possible and render a receipt of payment upon request.

#### 103-532.1. Customer Bill Forms

The bill shall show:

- (a) The gross and/or net amount of the bill;
- (b) Person to whom bill is sent;
- (c) Dates for which bill is rendered;
- (d) The applicable rate schedule, or identification of the rate schedule. If the actual rates are not shown, the bill shall carry a statement to the effect that the applicable rate schedule will be furnished on request;
- (e) Telephone number where utility can be contacted during regular office hours and non-office hours;
- (f) Date payment is due; and
- (g) The telephone number and email address of the Office of Regulatory Staff.

#### 103-532.2. Late Payment Charges.

A maximum of one and one-half percent (1 and 1/2 %) may be added to any unpaid balance not paid within 25 days of the billing date to cover the cost of collection and carrying accounts in arrears. This method of late-payment charge will be made in lieu of any other penalty.

#### 103-532.3. Payment by Check.

The utility at its option for good cause may refuse to accept a check tendered as payment on a customer's account and require payment in cash or other certified funds. Good cause must be justified by a sewerage utility by evidencing a credit history problem or by evidencing insufficient funds of the utility customer or applicant. For the purposes of this regulation, the sewerage utility may not consider indebtedness that was incurred by the customer or any member of the customer's household more than six (6) years prior to the time of application.

## 103-532.4. Charges for Disconnection and Reconnection.

Whenever service is disconnected for violation of rules and regulations, nonpayment of bills or fraudulent use of service, or at the request of the customer the utility shall not be required to reconnect such service until any arrearages have been paid and a reconnection fee of two-hundred-fifty dollars (\$250.00) has been paid to the utility. A reconnection fee shall be reduced to thirty-five dollars (\$35.00) when disconnection has been made by the use of an elder valve or similar device.

## 103-532.5. Deferred Payment Plan.

The utility shall provide for the arrangement of a deferred payment plan to enable a residential customer to make payment by installments where such customer is unable to pay the amount due for service. The deferred payment plan shall require the affected customer to maintain the customer's account current and pay not less than 1/6 of the outstanding balance for a period not to exceed six months. The outstanding balance may include the late payment charge authorized by R.103-532.2. Service to such customer shall not be terminated unless the utility has informed the customer that such deferred payment plan is available. A deferred payment plan is any agreement to extend or defer a payment cut-off date by more than 5 work days. If a customer fails to conform to the terms and conditions of such deferred payment plan, the utility may terminate service upon fifteen days written notice, with copies of such termination notice mailed to DHEC and the ORS.

## 103-533. Adjustment of Bills.

If it is found that a utility has directly or indirectly, by any device whatsoever, demanded, charged, collected or received from any customer a greater or lesser compensation for any service rendered or to be rendered by such utility than that prescribed in the schedules of such utility applicable thereto, then filed in the manner provided in Title 58 of the South Carolina Code of Laws; or if it is found that any customer has received or accepted any service from a utility for a compensation greater or lesser than that prescribed in such schedules; or if, for any reason, billing error has resulted in a greater or lesser charge than that incurred by the customer for the actual service rendered, then the method of adjustment for such overcharge or undercharge shall be provided by the following:

1. Customer Inadvertently Overcharged. If the utility has inadvertently overcharged a customer as a result of a misapplied schedule or any other human or machine error, the utility shall at the customer's option credit or refund the excess amount paid by that customer or credit the amount billed as provided by the following:

(a) If the interval during which the customer was overcharged can be determined, then the utility shall credit or refund the excess amount charged during the entire interval provided that the applicable statute of limitations shall not be exceeded.

(b) If the interval during which the customer was overcharged cannot be determined, then the utility shall credit or refund the excess amount charged during the twelve-month period preceding the date when the billing error was discovered.

2. Customer Inadvertently Undercharged. If the utility has undercharged any customer as a result of a misapplied schedule, or any human or machine error, then the utility may recover the deficient amount as provided as follows:

(a) If the interval during which a customer was undercharged can be determined, then the utility may collect the deficient amount incurred during that interval up to a maximum period of six months.

(b) If the interval during which a customer was undercharged cannot be determined, then the utility may collect the deficient amount incurred during the six-month period preceding the date when the billing error was discovered by the utility.

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(c) The customer shall be allowed to pay the deficient amount, in equal installments added to the regular monthly bills, over the same number of billing periods which occurred during the interval the customer was subject to pay the deficient amount.

3. Customer Willfully Overcharged. If the utility has willfully overcharged any customer, the utility shall refund the difference, plus interest, as stated in the South Carolina Code of Laws Section 34-31-20(A) or such future Code of Laws of South Carolina governing the legal rate of interest of cases of accounts stated and in all cases where any sum or sums of money shall be ascertained and shall draw interest according to law for the period of time that can be determined that the customer was overcharged.

4. Customer Undercharged Because of Fraud or Willful Misrepresentation. If the utility has undercharged any customer because of the customer's fraudulent actions or because the customer has willfully misrepresented a material fact resulting in an undercharge, or if it is shown that the customer is aware of any fraudulent or illegal action by another person such as tampering with the facilities owned by the utility and it is evident that such action benefits the customer, or if it is evident that a customer has knowledge of being undercharged without notifying the utility of such, then the utility may recover the deficient amount provided as follows:

(a) If the interval during which the customer was undercharged can be determined, then the utility shall collect the deficient amount incurred during that entire interval provided that the applicable statute of limitations is not exceeded.

(b) If the interval during which the customer was undercharged cannot be determined, then the utility shall collect the deficient amount incurred during the twelve-month period preceding the date when the billing error was discovered by the utility.

### 103-535. Denial or Discontinuance of Service.

Service may be refused or discontinued for any of the reasons listed below. Unless otherwise stated, the customer shall be allowed a reasonable time in which to comply with the rule before service is discontinued.

A. Without notice in the event of a condition determined by the utility, the commission by order, or the South Carolina Department of Health and Environmental Control to be hazardous or dangerous.

B. In the event of customer use of equipment in such a manner as to affect adversely the utility's service to others.

C. In the event of unauthorized use of the utility's service.

D. For customer tampering with equipment furnished and owned by the utility. The customer shall make every reasonable effort to prevent tampering and shall notify the utility immediately of any tampering with damage to, or removal of any equipment.

E. For violation of and/or non-compliance with these rules and regulations.

F. For failure of the customer to fulfill the customer's contractual obligations for service and/or facilities subject to regulation by the commission.

G. For failure of the customer to permit the utility reasonable access to its equipment.

H. For non-payment of any amounts due for connection charges and/or for service rendered provided that the utility has made a reasonable attempt to effect collection and has given the customer the proper notice as required by R.103-535.1.

I. For molesting or tampering with any service or sewerage pipe, or for illegally making connection into any sewerage line for the disposal of drainage surface waters.

J. For failure of the customer to provide the utility with a deposit as authorized by R.103-531.

K. For failure of the customer to furnish permits, certificates, and/or rights of way, as necessary to obtaining service, or in the event such permissions are withdrawn or terminated.

L. No sewer utility shall be required to furnish its sewerage service or to continue its service to any applicant who, at the time of such application, is indebted or any member of the applicant's household is indebted, under an undisputed bill to such sewer utility company for sewerage service previously furnished such applicant or furnished any other member of the applicant's household. However, for the purposes of this regulation, the sewer utility may not consider any indebtedness which was incurred by the applicant or any member of his household more than six (6) years prior to the time of application.

M. The utility may discontinue a customer's service should that customer be in arrears on an account for service at another premises unless the customer pays a reasonable amount of his arrears account and makes reasonable arrangement with the utility to amortize the balance of such past due or arrears account over a reasonable length of time, not to exceed twelve months.

N. For the reason that the customer's use of the utility's service conflicts with, or violates, orders, ordinances or laws, of the State or any subdivision thereof, or of the commission.

O. In the case of a landlord/tenant relationship where the tenant is the customer, the utility may require the landlord to execute an agreement wherein such landlord agrees to be responsible for all charges billed to that premises in accordance with the approved tariffs for that utility and the Rules of the commission, and said account shall be considered the landlord's and tenant's account. In the event the landlord refuses to execute such an agreement, the utility may not discontinue service to the premises unless and until the tenant becomes delinquent on his account or until the premises are vacated. The utility may discontinue service pursuant to R.103-535.1 if the account is delinquent or may discontinue service at the time the premises are vacated and the utility shall not be required to furnish service to the premises until the landlord has executed the agreement, and paid any reconnection charges.

P. No utility shall be required to furnish, or continue to furnish its sewerage service to any premises to which the utility has not inspected the service connection, provided however, if the utility has waived its right to inspect the service connection, it may not refuse to furnish nor refuse to continue service to the premises.

Q. For nonpayment of any connection charge properly imposed by the utility and owed by the customer provided that the utility has made a reasonable attempt to effect collection and has given the customer 30 days written notice, sent by certified mail to the customer's billing address, with a copy forwarded to the commission. A connection charge owed by a third party or a previous occupant or owner of premises is not deemed to be owed by the current customer, and that current customer's service may not be disconnected under such circumstances.

#### 103-535.1. Notice Prior to Discontinuance of Service.

A. Before any sewerage service may be discontinued, the utility must give thirty (30) days written notice to the customer, by certified mail, verified email, or hand delivered by staff/process server unless R.103-535.A is applicable, with copies forwarded to the local Bureau of Environmental Health Services and the ORS. At the expiration of the thirty (30) day period, the utility shall post a second notice by certified mail, verified email, or hand delivered by staff/process server to the customer advising that in not less than 10 days nor more than 30 days, the service may be discontinued at any time without further advance notice. If the physical disconnection of any sewerage service will cause an immediate environmental impact, as provided by the South Carolina



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Pollution Control Act or the Federal Clean Water Act, the local Bureau of Environmental Health Services of the South Carolina Department of Health and Environmental Control and the ORS shall immediately be notified of the action and the name and address of the customer. Service will be terminated only on Monday through Thursday between the hours of 8:00 A.M. and 4:00 P.M., unless provisions have been made to have someone available to accept payment and reconnect service. The utility must inform the customer in the notice that the customer can contact the ORS if the customer disputes the discontinuance of service. Termination of service may be delayed in case of inclement weather, emergencies, or operational conflicts.

B. Upon termination of service, the sewer utility shall deliver a final written notice, such as a door hanger at the customer's premises. The notice shall notify the customer that the sewer service has been disconnected, and any further use of service could cause environmental or health impacts. Additionally, the notice shall provide contact information for the utility and instructions for reestablishing service. The sewer utility shall maintain records of the efforts made to contact such customers pursuant to each section of R. 103-535.1.

C. The sewer utility shall provide a copy of the termination notice to any third party identified by the customer upon establishment of the service account or at any time thereafter.

### 103-538. Customer Complaints.

A. Complaints concerning the charges, practices, facilities, or service of the utility shall be investigated promptly and thoroughly. The utility shall keep such records of customer complaints as will enable it and ORS to review and analyze the utility's procedures and actions. All customer complaints will be processed pursuant to R.103-516 and R.103-530.F.

B. When the ORS has notified the utility that a complaint has been received concerning a specific account and such complaint has been received by the ORS before service is terminated, the utility shall not discontinue the service of that account until the ORS's investigation is completed and the results have been received by the utility. Service shall not be discontinued if the complainant requests in writing a hearing before the commission.

### 103-552. Acceptable Standards.

Unless otherwise specified by the commission, each utility shall use the guidelines of the South Carolina Department of Health and Environmental Control as minimum standards of good engineering practices.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

Changes to Article 5, Sewerage Utilities Regulations are needed to update current utility operations and practices, increase efficiency and transparency, and to incorporate gender neutral references.

Document No. 5184  
**PUBLIC SERVICE COMMISSION**  
 CHAPTER 103

Statutory Authority: 1976 Code Sections 58-3-140 and 58-5-210

- 103-702. Definitions.
- 103-710. Location of Records and Reports.
- 103-712. Data to be Filed with the Commission and Provided to the ORS.
- 103-730. Customer Information.
- 103-731. Customer Deposits.
- 103-732. Customer Billing.
- 103-733. Adjustments of Bills.
- 103-735.1. Procedures for Termination of Service.
- 103-738. Customer Complaints.
- 103-750. Requirement for Good Engineering Practice.
- 103-752. Acceptable References.
- 103-761. Commission Inspection and Tests.

**Synopsis:**

The Public Service Commission of South Carolina Staff began conducting its formal review of all its regulations under S.C. Code Ann. Section 1-23-120(J) when it opened Docket No. 2020-247-A on Wednesday, October 14, 2020. The Commission Staff, after it opened Docket No. 2020-247-A, provided the opportunity for interested stakeholders to recommend changes to the Commission’s Article 7, Water Utilities Regulations via written comments and oral comments at its publicly noticed workshops.

Section-by-Section Discussion:

Section	Type of Change	Purpose
103-702.	Amendment/Revision	Amended to add definitions for municipality, local office or business office and for mail; amended to reflect proposed amended Regulation 103-823; and amended to include a gender-neutral reference.
103-710.	Amendment/Revision	Amended to require all records be maintained by a utility under Chapter 103, Article 7 shall be available for inspection in South Carolina, unless otherwise authorized by the commission.
103-712.	Amendment/Revision	Amended to require utilities to advise the Commission and the ORS of authorized utility representatives’ email addresses and amended to delete the filing requirements for rate applications.
103-730.	Amendment/Revision	Amended to delete the following: “that remains unresolved after seven days”.

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103-731.	Amendment/Revision	Amended to allow utilities, at the utilities’ option, to require a deposit from any customer or prospective customer if the customer has had service terminated for fraudulent use; to include a gender neutral reference; and to clarify when interest on deposits ceases and the mode to communicate to the customer the cessation of interest on the deposit.
103-732.	Amendment/Revision	Amended to require the utility to render a receipt of payment to the customer upon request and to state the utility bill form shall show the Office of Regulatory Staff’s telephone number and email address and amended to include gender neutral references.
103-733.	Amendment/Revision	Amended to require interest to be paid when a customer is willfully overcharged as provided in S.C. Code Ann. Section 34-31-20(A).
103-735.1.	Amendment/Revision	Amended to include the mode to notify customers of discontinuance/termination of service; and to direct the utility to provide a copy of a termination notice to any third party with the customer’s consent; and amended to include gender neutral references.
103-738.	Amendment/Revision	Amended to delete the word “oral”.
103-750.	Amendment/Revision	Amended to delete information related to mains.
103-752.	Amendment/Revision	Amended to include the conjunction “and” and to modify punctuation.
103-761.	Amendment/Revision	Amended to change the title of this regulation to “ORS Inspection and Tests” and amended to include gender neutral references.

The Notice of Drafting was published in the *State Register* on December 23, 2022.

**Instructions:**

Print the regulations as shown below. All other items remain unchanged.

**Text:**

103-702. Definitions.

The following words and terms, when used in these rules and regulations, shall have the meaning indicated below:

103-702.1. Commission.

The Public Service Commission of South Carolina.

103-702.2. Curb Stop.

Valve controlling water flow located on the utility service line. Curb stops are for the exclusive use of the utility for control of the water supply to individual customers and should be located at or adjacent to the customer’s property line but should not be located on the customer’s premises. The control of the water supply by the customer shall be by means of a separate valve, installed by the customer, and located on the customer’s premises.

103-702.3. Customer.

Any person, firm, partnership or corporation, or any agency of the Federal, State or Local Government, being supplied with service by a utility under the jurisdiction of this commission. Customers shall be classified for purposes of applying rates as “residential”, or “commercial”, or “industrial”.

103-702.4. Customer Contribution in Aid of Construction.

A fee paid by a customer under a contract entered into by and between the utility and its customers providing terms for the extension of the utility’s mains to serve the customer.

103-702.5. Customer Service Line.

The portion of the distribution line that transports water from the meter, to the place of consumption on the customer’s premises, or, if there is no meter, from the curb stop to the place of consumption on the customer’s premises.

103-702.6. Error in Registration.

The percentage by which the correct registration varies from the meter registration. The error is derived by stopping the meter test hand at the starting point and then determining the percentage variation in registration as indicated by the working standard. The formula for determining the error in registration is:

	100	x	(Meter Reading-Actual Volume)	
			(Actual Volume)	

A positive percentage indicates a fast meter and a negative percentage indicates the meter is slow.

103-702.7. Homeowners Association.

An association of lot owners located in a particular subdivision or development incorporated under the laws of this state as a non-profit corporation, including as one of its purposes, the operation of a water system to serve the particular subdivision or development. Each homeowners association, prior to the commencement of operations of a water system, shall file with the commission and provide a copy to the ORS (a) a certified copy

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of its certificate of incorporation; (b) a copy of the corporation's bylaws; (c) a copy of any declaration of covenants, conditions and restrictions on real property in the subdivision or development filed in conjunction with the formation of the homeowners association; (d) a copy of the permit or authorization from the Department of Health and Environmental Control issued to the homeowners association to operate the utility; and (e) copies of a statement signed by each lot owner disclosing that the water services in the subdivision are provided by a non-profit homeowners association, in which each lot owner is a voting member, and that an appropriate assessment to meet operating expenses of the utility must be paid by each lot owner.

### 103-702.8. Main.

A water pipe owned, operated or maintained, by a utility, which is used for the purpose of transmission or distribution of water, but does not include the "utility service line" or "customer service line".

### 103-702.9. Meter.

Any device, or instrument, which is used by a utility in measuring a quantity of water for billing purposes. The meter will be the property of, and will be maintained by, the utility.

### 103-702.10. The Office of Regulatory Staff.

The executive director and employees of the Office of Regulatory Staff.

### 103-702.11. Premises.

A piece or tract of land or real estate, including buildings and other appurtenances thereon.

### 103-702.12. Rate.

The term "rate" when used in these rules and regulations means and includes every compensation, charge, toll, rental, classification, or availability fee, or any of them, including tap fees, or other non-recurring charges demanded, observed, charged, or collected by any utility for any water service offered by it to the public, and any rules and regulations, practices, or contracts affecting any such compensation, charge, toll, rental or classification. An application for approval of any rate schedule will not be accepted for filing under S.C. Code Ann. Section 58-5-240 unless accompanied by the information specified under 103-823.

### 103-702.13. Tap Fee.

A non-recurring, non-refundable charge related to connecting the customer to the utility's system which includes the cost of installing the utility's service line from the main to the customer's premises and a portion of plant capacity which will be used to provide service to the new customer. Plant capacity shall be computed by using the Guidelines for Unit Contributory Loadings to Wastewater Treatment Facilities (1972) to determine the single family equivalency rating. Any privately-owned corporation, firm, partnership, or individual empowered by contract, or otherwise, to collect a tap fee from a customer for the provision of water service to that customer shall be considered a utility, and shall obtain commission approval prior to collecting tap fees, or any other rates for water service. An application for approval of any rate change shall not be considered unless the filing contains appropriate exhibits setting forth all cost criteria justifying the tap fee, setting forth the portion of the tap fee related to installing the service line and the portion related to plant capacity.

### 103-702.14. Utility.

Every person, firm, partnership, association, establishment or corporation furnishing or supplying in any manner water to the public, or any portion thereof, for compensation. A "homeowners association", as defined

in these rules and regulations and subject to the requirements set forth herein, upon commission order, may be found not to be a utility.

103-702.15. Utility Service Line.

The portion of the distribution line that transports water from a main to a meter, or if there is no meter, up to and including the curb stop.

103-702.16. Water Plant.

All facilities owned by the utility for the collection, production, purification, storage, transmission, metering, and distribution of potable water.

103-702.17. Local Office or Business Office.

These terms mean that in the event a water utility operates a local office or business office set forth in this article, then the water utility shall comply with the requirements of the section or subsection of the regulation addressing such local office or business office. In the event the utility does not operate a local office or business office, the section or subsection of the regulation does not apply to the water utility.

103-702.18. Mail.

The term “mail” means a communication sent by U.S. Mail or the notice method selected by the water utility customer and maintained in the customer’s records at the water utility.

103-702.19. Municipality.

“Municipality” includes a city, town, county, township, and any other corporation existing, created or organized as a governmental unit under the Constitution and laws of this State.

103-710. Location of Records and Reports.

All records required by these rules are necessary for the administration thereof, shall be available for inspection in this state, unless otherwise specifically authorized by the commission. These records shall be available for examination by the ORS or its authorized representatives at all reasonable hours.

103-712. Data to be Filed with the Commission and Provided to the ORS.

1. Annual Report. Each utility operating in the State shall file an annual report with the commission and provide a copy to the ORS giving accounting, and other information as the commission directs.

The commission or the ORS will provide an annual report form upon request. If the utility’s books are maintained on a calendar year, the annual report must be filed on or before April 1st of each year. If the utility uses a fiscal year other than December 31st, the annual report should be filed within three months after the end of the fiscal year.

2. Current Information and Documents. The utility shall file with the commission and provide a copy to the ORS the following documents and information, and shall maintain such documents and information in a current status.

2.1. Tariff. A copy of each schedule of rates and charges for service, together with the applicable riders, including any rules and regulations or terms and conditions describing policies and practices in rendering service shall be provided to the commission and the ORS.

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2.2. Contract Forms. A copy of each special contract for service, including aid to construction agreements, and rate or toll agreements shall be provided to the commission and the ORS.

2.3. Customer Bill. A copy of each type of customer bill form, which shall include the information which is normally shown on a customer's bill for service shall be provided to the ORS.

2.4. Operating Area Maps. A map of the utility's operating area. This map shall be revised annually and provided to the ORS unless such revision is unnecessary, in which event the utility shall notify the ORS that the map on file is current. The map should show:

- (a) Location of pumping stations, purification plants and sources of supply;
- (b) Potable water storage facilities;
- (c) Mains by size;
- (d) Location of valves and fire hydrants;
- (e) Service area clearly drawn on operating area map utilizing proper surveying standards;
- (f) Names of all communities (post offices) served;
- (g) Location of blow off valves;
- (h) Capacity of the system and;
- (i) Location of cross-connection control devices

2.5. Authorized Utility Representative. The utility shall advise the commission and ORS of the name, title, address, email address, and telephone number of the person who should be contacted in connection with:

- (a) General management duties;
- (b) Customer relations (complaints);
- (c) Engineering operations;
- (d) Meter test and repairs; and,
- (e) Emergencies during non-office hours.

3. Performance Bond. Prior to operating, maintaining, acquiring, expanding or improving any water utility system, for which commission approval is required, the utility shall have on file with the commission and provide a copy to the ORS a performance bond with sufficient surety using a format prescribed by the commission.

3.1. Amount of Bond. The amount of bond shall be based on, but not limited to, the total amount of the following categories of expenses for twelve months: Operation and Maintenance Expenses, General and Administrative Expenses, Taxes Other Than Income Taxes, Income Taxes, and Debt Service including Interest Expenses. The minimum amount of the bond shall be \$100,000 and the maximum amount of the bond shall be \$350,000 based on the verified expenses of the utility for the preceding twelve-month period. A bond shall be required for each water and wastewater provider under the jurisdiction of the Public Service Commission. A certification that the face amount of the bond on file with the commission complies with the provisions of 103-712.3.1 shall be filed with the annual report required by 103-712.1 of this rule. The ORS shall review the

annual reports and certifications and determine whether the present bond of the utility accurately reflects the expenses of the utility. Based upon the expenses of the utility as submitted in the annual report and as reviewed and adjusted by the ORS, the ORS shall make recommendations for increasing or reducing the amount of the bond within the minimum and maximum limits as prescribed by statute.

3.2. Sureties. Sufficient surety may be any duly licensed bonding or insurance company authorized to do business in this state. A corporate surety, other than such a bonding or insurance company, shall not be considered sufficient surety.

Sufficient surety may be any individual, as stockholder, partner, sole owner, etc., in the utility, so long as the individual surety's net worth is at least twice the face amount of the performance bond.

3.3. Financial statement. Upon order of the commission, when any individual acts as surety, he shall file with the commission and provide a copy to the ORS annually a financial statement verified by said surety showing the individual surety's personal assets, liabilities and net worth. The commission may accept a verification of the financial statement in a format prescribed by the commission, including third-party verification.

#### 103-730. Customer Information.

Each utility shall:

A. Maintain up-to-date maps, plans, or records of its entire transmission and distribution systems, with such other information as may be necessary to enable the utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving customers within its operating area.

B. Notify each affected customer in writing as prescribed by the commission of any proposed change in rates and charges. A certification that the above notice requirements have been met shall be furnished to the commission by the utility prior to the public hearing.

C. Provide that a complete schedule, contract forms, rules and regulations, etc., as filed with the commission and provided to the ORS, shall also be on file in the local offices of the utility and shall be open to the inspection of the public.

D. Upon request, inform its customers as to the method of reading meters and as to billing procedures, and shall assist prospective customers in selecting the most economical rate schedule applicable.

E. Provide adequate means (telephone, etc.) whereby each customer can contact an authorized representative of the utility at all hours in cases of emergency or unscheduled interruptions of service.

F. Notify any customer making a complaint pursuant to 103-716 that the utility is under the jurisdiction of the commission and the customer may notify the ORS of the complaint.

G. Inform each prospective customer from whom a deposit may be required of the provisions contained in 103-731 and its subsections.

H. Inform each prospective customer that the customer's service line shall conform to all local plumbing codes, and in the absence of such codes shall conform to the Southern Standard Plumbing Codes.

#### 103-731. Customer Deposits.

Each utility may require from any customer or from any prospective customer, a deposit intended to guarantee payment of bills for service, if any of the following conditions exist:



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(a) The customer's past payment record to a water utility shows delinquent payment practice, i.e. the customer has had two consecutive thirty-day arrears, or more than two non-consecutive thirty-day arrears in the past twenty-four months or,

(b) A new customer cannot furnish either a letter of good credit from a reliable source or an acceptable cosigner to guarantee payment, or

(c) A customer has no deposit, and presently is delinquent in payments (i.e., the customer has had two consecutive 30-day arrears, or more than two non-consecutive 30-day arrears, in the past 24 months), or

(d) A customer has had their service terminated for nonpayment or fraudulent use.

### 103-731.1. Amount of Deposit.

A. A maximum deposit may be required up to an amount equal to an estimated two (2) months (60 days) bill for a new customer or a maximum deposit may be required up to an amount equal to the total actual bills of the highest two (2) consecutive months based on the experience of the preceding twelve (12) months or portion of the year, if on a seasonal basis.

B. All deposits may be subject to review based on the actual experience of the customer. The amount of the deposit may be adjusted upward or downward to reflect the actual billing experience and payment habits of the customer.

### 103-731.2. Interest on Deposits.

A. Simple interest on deposits at the rate as determined by commission Order shall be paid by the utility to each customer required to make such deposit for the time it is held by the utility, provided that no interest need be paid unless the deposit is held longer than six months.

B. The interest shall be accrued annually and payment of such interest shall be made to the customer at least every two (2) years and at the time the deposit is returned.

C. The deposit shall cease to draw interest on the date it is returned, on the date service is terminated, or on the date notice is sent the deposit is no longer required to the customer's last known address, by bill insert, or by the notice method selected by the water utility customer and maintained in the customer's records at the water utility.

### 103-731.3. Deposit Records.

Each utility shall keep a record to show:

- (a) The name and address of each depositor;
- (b) The amount and date of the deposit; and,
- (c) Each transaction concerning the deposits.

### 103-731.4. Deposit Receipt.

Each utility shall issue a receipt of deposit to each customer from whom a deposit is received, and shall provide means whereby a depositor may establish his claim if his receipt is lost.

### 103-731.5. Deposit Retention.

Deposits shall be refunded completely with interest after two years unless the customer has had two consecutive 30-day arrearages, or more than two non-consecutive 30-day arrearages, in the past 24 months.

#### 103-731.6. Unclaimed Deposits.

A record of each unclaimed deposit must be maintained for at least one year during which time the water utility shall make a reasonable effort to return the deposit. Unclaimed deposits, together with accrued interest, shall be turned over to the South Carolina State Treasurer as prescribed by law.

#### 103-731.7. Deposit Credit.

Where a customer has been required to make a deposit, this shall not relieve the customer of the obligation to pay the service bills when due. Where such deposit has been made and service has been discontinued for reason of non-payment of bill, a utility shall apply the deposit of such customer toward the discharge of the customer's account and shall as soon thereafter as practicable refund the customer any excess of the deposit. If however, the customer whose service has been disconnected for non-payment, pays the full amount on his account within 72 hours after service has been disconnected and applies for reconnection, the utility may not charge an additional deposit except under the provisions of 1 of this rule.

#### 103-732. Customer Billing.

The utility shall bill each customer as promptly as possible following the reading of the customer's meter and render a receipt of payment upon request.

##### 103-732.1. New Service.

Meters shall be read at the initiation and termination of any service and billing shall be based thereon.

##### 103-732.2. Customer Bill Forms.

The bill shall show:

- (a) The reading of the meter at the end and beginning of the period for which the bill is rendered;
- (b) The date on which the meter was read;
- (c) The number and kind of units metered;
- (d) The applicable rate, schedule, or identification of the applicable rate schedule. If the actual rates are not shown, the bill shall carry a statement to the effect that the applicable rate schedule will be furnished on request;
- (e) Total amount due;
- (f) A distinct marking to identify an estimated bill;
- (g) Any conversions from meter reading units to billing units or any calculations to determine billing units from recording or other devices, or any other factors used in determining the bill. In lieu of such information on the bill, a statement must be on the bill advising that such information can be obtained by contacting the utility's principal office;
- (h) Number of days for which bill is rendered;

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- (i) Date payments due;
- (j) Date of bill.
- (k) Telephone number where utility can be contacted during regular office hours and non-office hours.
- (l) The telephone number and email address of the Office of Regulatory Staff.

### 103-732.3. Late Payment Charges.

A maximum of one and one-half percent (1 1/2 %) may be added to any unpaid balance not paid within 25 days of the billing date to cover the cost of collection and carrying accounts in arrears. This method of late payment charge will be made in lieu of any other penalty.

### 103-732.4. Payment by Check.

The utility at its option for good cause may refuse to accept a check tendered as payment on a customer's account, and require payment in cash or other certified funds. Good cause must be justified by a water utility by evidencing a credit history problem or by evidencing insufficient funds of the utility customer or applicant. For the purposes of this regulation, the water utility may not consider indebtedness that was incurred by the customer or any member of his household more than six (6) years prior to the time of application.

### 103-732.5. Charges for Discontinuance and Reconnection.

Whenever service is turned off for violation of rules and regulations, nonpayment of bills, or fraudulent use of service, or at the request of the customer, the utility may make reasonable charges to be approved by the commission for the cost incurred in discontinuing the service and reconnection and require payment for service billed and for service used which has not previously been billed.

### 103-732.6. Estimated Bills.

No utility shall send a customer an estimated bill, except for good cause, when the meter could not be read or was improperly registering. In no instance will more than one estimated bill be rendered within a 60-day period, unless otherwise agreed to by the customer.

### 103-732.7. Deferred Payment Plan.

The utility shall provide for the arrangement of a deferred payment plan to enable a residential customer to make payment by installments where such customer is unable to pay the amount due for water service. The deferred payment plan shall require the affected customer to maintain his account current and pay not less than 1/6 of the outstanding balance for a period not to exceed six months. The outstanding balance may include the late payment charge authorized by R.103-732.3. Service to such customer shall not be terminated unless the utility has informed the customer that such deferred payment plan is available. A deferred payment plan is any agreement to extend or defer a payment cut-off date by more than 5 work days. If a Customer defaults on a Deferred Payment Plan, the Utility may terminate service pursuant to 103-735.1.

### 103-733. Adjustments of Bills.

If it is found that a utility has directly or indirectly, by any device whatsoever, demanded, charged, collected or received from any customer a greater or lesser compensation for any service rendered or to be rendered by such utility than that prescribed in the approved rate schedules of such utility, then filed in the manner provided in Title 58 of the South Carolina Code of Laws; or if it is found that any customer has received or accepted any service from a utility for a compensation greater or lesser than that prescribed in such schedules; or if, for any

reason, billing error has resulted in a greater or lesser charge than that incurred by the customer for the actual service rendered, then the method of adjustment for such overcharge or undercharge shall be as provided by the following:

103-733.1. Fast or Slow Meters.

If the overcharge or undercharge is the result of a fast or slow meter, then the method of compensation shall be as follows:

(a) In case of a disputed account, involving the accuracy of a meter, such meter shall be tested upon request of the customer, as specified in 103-760(B).

(b) In the event that the meter so tested is found to have an error in registration of more than three (3) percent, the bills will be increased or decreased accordingly, but in no case shall such a correction be made for more than sixty (60) days or two (2) billing periods, whichever is greater, prior to determination of meter error.

103-733.2. Customer Inadvertently Overcharged.

If the utility has inadvertently overcharged a customer as a result of a misapplied schedule, an error in reading the meter, a skipped meter reading, or any other human or machine error, except as provided in 1 of this rule, the utility shall, at the customer's option, credit or refund the excess amount paid by that customer or credit the amount billed as provided by the following:

(a) If the interval during which the customer was overcharged can be determined, then the utility shall credit or refund the excess amount charged during that entire interval provided that the applicable statute of limitations shall not be exceeded.

(b) If the interval during which the customer was overcharged cannot be determined, then the utility shall credit or refund the excess amount charged during the 12-month period preceding the date when the billing error was discovered.

(c) If the exact usage and/or demand incurred by the customer during the billing periods subject to adjustment cannot be determined, then the refund shall be based on an appropriate estimated usage and/or demand.

103-733.3. Customer Inadvertently Undercharged.

If the utility has undercharged any customer as a result of a misapplied schedule, an error in reading the meter, a skipped meter reading, or any human or machine error, except as provided in 1 and 5 of this rule, then the utility may recover the deficient amount as provided as follows:

(a) If the interval during which a customer was undercharged can be determined, then the utility may collect the deficient amount incurred during that interval up to a maximum period of six months.

(b) If the interval during which a customer was undercharged cannot be determined, then the utility may collect the deficient amount incurred during the six-month period preceding the date when the billing error was discovered by the utility.

(c) The customer shall be allowed to pay the deficient amount, in equal installments added to the regular monthly bills, over the same number of billing periods which occurred during the interval the customer was subject to pay the deficient amount.

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(d) If the usage and/or demand incurred by that person during the billing periods subject to adjustment cannot be determined, then the adjustment shall be based on estimated usage and/or demand. If a meter has ceased to register, the adjustment shall be based on the average registration of the meter over a six-month period when in order.

### 103-733.4. Customer Willfully Overcharged.

If the utility has willfully overcharged any customer, the utility shall refund the difference, plus interest, as stated in the South Carolina Code of Laws Section 34-31-20(A) or such future Code of Laws of South Carolina governing the legal rate of interest of cases of accounts stated and in all cases where any sum or sums of money shall be ascertained and shall draw interest according to law for the period of time that can be determined that the customer was overcharged.

### 103-733.5. Customer Undercharged Because of Fraud or Willful Misrepresentation.

If the utility has undercharged any customer because of the customer's fraudulent actions, such as tampering with, or bypassing the meter, or because the customer has willfully misrepresented a material fact resulting in an undercharge, or if it is shown that the customer is aware of fraudulent or illegal action by another person, such as tampering with, or bypassing the meter and it is evident that such tampering or bypassing benefits the customer, or if it is evident that a customer has knowledge of being undercharged without notifying the utility as such, then notwithstanding 1 of this rule, the utility shall recover the deficient amount provided as follows:

(a) If the interval during which the customer was undercharged can be determined, then the utility shall collect the deficient amount incurred during that entire interval, provided that the applicable statute of limitations is not exceeded.

(b) If the interval during which the customer was undercharged cannot be determined, then the utility shall collect the deficient amount incurred during the 12-month period preceding the date when the billing error was discovered by the utility.

(c) If the usage and/or demand incurred by that customer during the billing periods subject to adjustment cannot be determined, then the adjustment shall be based on an appropriate estimated usage and/or demand.

(d) In addition to the above, if the metering equipment has been removed or damaged, then the utility shall collect the estimated cost of repairing and/or replacing such equipment.

### 103-735.1. Procedures for Termination of Service.

(A) Service may be terminated for non-payment of a bill, provided that the water utility has made a reasonable attempt to effect collection and has given the customer written notice, sent by regular mail to the customer's billing address, that the customer has ten days in which to make settlement on the customer's account or have the customer's service disconnected. Service will be terminated only on Monday through Thursday between the hours of 8:00 A.M. and 4:00 P.M., unless provisions have been made to have someone available to accept payment and reconnect service.

(B) Service may be terminated for non-payment of any connection charge properly imposed by the utility and owed by the customer provided that the utility has made a reasonable attempt to effect collection and has given the customer 30 days written notice, sent by certified mail to the customer's billing address, with a copy forwarded to the ORS. A connection charge owed by a third party or a previous occupant or owner of premises is not deemed to be owed by the current customer, and that current customer's service may not be disconnected under such circumstances. At the expiration of the 30 day period, the utility shall post a second notice by certified mail to the customer advising that in not less than 10 days nor more than 30 days, the customer's service may

be disconnected at any time without further notice. The utility must inform the customer in the notice that the customer can contact the ORS if the customer disputes the discontinuance of service.

(C) Upon termination of service, the water utility shall deliver a final written notice, such as a door hanger, at the customer's premises. The notice shall notify the customer that service has been disconnected and shall provide contact information for the utility, Office of Regulatory Staff, and instructions for reestablishing service. The water utility shall maintain records of the efforts made to contact the customers pursuant to section 103-735.1. Termination of service may be delayed in case of inclement weather, emergencies, or operational conflicts.

(D) The water utility shall provide a copy of the termination notice to any third party identified by the customer upon establishment of the service account or at any time thereafter.

103-738. Customer Complaints.

A. Complaints concerning the charges, practices, facilities, or service of the utility shall be investigated promptly and thoroughly. The utility shall keep records of customer complaints as will enable it and the ORS to review and analyze its procedures and actions. All customer complaints shall be processed by the utility pursuant to 103-716 and 103-730.F.

B. When the ORS has notified the utility that a complaint has been received concerning a specific account and the ORS has received notice of the complaint before service is terminated, the utility shall not discontinue the service of that account until the ORS's investigation is completed and the results have been received by the utility. Service shall not be discontinued if the complainant requests in writing a hearing before the commission.

103-750. Requirement for Good Engineering Practice.

A. The water plant of the utility shall be constructed, installed, maintained and operated in accordance with accepted good engineering practice and regulations included to assure as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

The design and construction of the water plant shall conform to the requirements of the South Carolina Department of Health and Environmental Control.

B. Disinfection of facilities. All new mains, pumps, tanks, wells and other facilities for handling potable water, repaired mains and other facilities, shall be thoroughly disinfected before being connected to the system. The method of disinfection shall be as approved by the Department of Health and Environmental Control.

103-752. Acceptable References.

Unless otherwise specified by the commission, the utility shall use the applicable provisions in the publications listed below as operational requirements, where applicable, and standards of accepted good practice:

- (a) The most current edition of the Community Water Systems, Ameen; and
- (b) The most current edition of the Manual of Individual Water Systems.

103-761. ORS Inspection and Tests.

The ORS shall make tests of meters as follows:

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(a) Upon written application to the ORS by a customer or a utility, a test will be made of the customer's meter as soon as practicable.

(b) On receipt of such request the ORS will notify the utility and the utility shall not knowingly remove or adjust the meter until instructed by the ORS. The utility shall furnish to the ORS's representative such reasonable assistance as may be required to make the test.

(c) The customer, or the customer's representatives, may be present when the customer's meter is tested.

(d) The ORS will make a written report of the results of the test to the customer and to the utility.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

Changes to Article 7, Water Utilities Regulations are needed to update current utility operations and practices, increase efficiency and transparency, and to incorporate gender neutral references.

Document No. 5168

### **PUBLIC SERVICE COMMISSION**

#### CHAPTER 103

Statutory Authority: 1976 Code Section 58-3-140

103-805. Representation.

103-816. Written Correspondence.

103-817. Proceedings.

103-817.1. E-Filing and E-Service.

103-823. Applications.

103-830. Filing and Service of Pleadings.

103-830.1. Service Between Parties of Record.

103-833. Written Interrogatories and Request for Production of Documents and Things.

103-835. Other Discovery Procedures.

103-836. How Hearings are Set.

103-841. Presiding Officer.

103-845. Witnesses.

103-848. Exhibits.

103-852. Service of Orders.

103-853. Finality of Decision.

103-855. Presiding Officer's Proposed Report.

### **Synopsis:**

The Public Service Commission of South Carolina Staff began conducting its formal review of all its regulations under S.C. Code Ann. Section 1-23-120(J) when it opened Docket No. 2020-247-A on Wednesday, October 14, 2020. The Commission Staff, after it opened Docket No. 2020-247-A, provided the opportunity for interested stakeholders to recommend changes to the Commission's Article 8 Practice and Procedure Regulations via written comments and oral comments at its publicly noticed workshops.

### Section-by-Section Discussion:

Section	Type of Change	Purpose
103-805.	Amendment/Revision	Amended to require individuals to agree to E-Filing and E-Service, unless excused; to delete references to certificate of public convenience and necessity and to FWA
103-816.	Amendment/Revision	Amended to direct the public to psc.sc.gov for the Commission’s physical location
103-817.	Amendment/Revision	Amended to clarify certain terminology and types of filings
103-817.1.	Amendment/Revision	Amended to clarify certain types of filings
103-823.	Amendment/Revision	Amended to amend minimum filing requirements for applications and to include the phrase limited liability company
103-830.	Amendment/Revision	Amended to clarify terminology
103-830.1.	Amendment/Revision	Amended to require service of filings in a docket via electronic means, unless a party does not have the capacity to do so
103-833.	Amendment/Revision	Amended to delete the phrase “working papers” and include the phrase “attorney work product” and “or in anticipation of litigation” and to allow the Commission to shorten the timeframe for discovery and to include limited liability company
103-835.	Amendment/Revision	Amended to authorize the Commission to order modifications to discovery procedures and schedules; to permit all parties to receive a copy of discovery subject to executing a non-disclosure agreement; to provide the regulation is subject to limitations in S.C. Code Ann. Section 58-4-55
103-836.	Amendment/Revision	Amended to authorize the Commission to conduct its proceedings virtually or by other remote means
103-841.	Amendment/Revision	Amended to permit the appointment of a designee to administer oaths and affirmations and to delete the report of the presiding officer



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103-845.	Amendment/Revision	Amended to require all exhibits be readable and legible, to require prefiled testimony to conform to Commission prescription, and to require the filing of prefiled testimony within two weeks of the filing initiating a docket in certain circumstances
103-848.	Amendment/Revision	Amended to require all exhibits, no matter the size, to be readable and legible
103-852.	Amendment/Revision	Amended to state Commission Orders are served electronically and to note parties of record who utilize electronic filing are served with Commission Orders when such Orders are processed on the Commission's Docket Management System.
103-853.	Amendment/Revision	Amended to include electronic service
103-855.	Deleted	Amended to delete the Presiding Officer's Proposed Report

The Notice of Drafting was published in the *State Register* on September 23, 2022.

#### Instructions:

Print the regulation as shown below. All other items remain unchanged.

#### Text:

103-805. Representation.

A. Parties and Their Representatives. Parties in a case have the right to participate or to be represented in all hearings or pre-hearing conferences related to their case. Except as otherwise provided herein, a party must be represented by an attorney admitted to practice law in South Carolina, or an attorney possessing a Limited Certificate of Admission pursuant to Rule 405, SCACR. No one shall be permitted to represent a party where such representation would constitute the unauthorized practice of law.

B. Representation of Entities. Except as otherwise provided in S.C. Code Ann. Regs. 103-805(E), any entity including, but not limited to, a corporation, partnership, limited liability company, or professional association, must be represented by an attorney admitted to practice law in South Carolina, or an attorney possessing a Limited Certificate of Admission pursuant to Rule 405, SCACR.

C. Representation of Individuals. An individual person not admitted to practice law in South Carolina may represent himself or herself but may not represent another person. A party proceeding without legal representation shall remain fully responsible for compliance with the commission's regulations and the Administrative Procedures Act and must agree to E-Filing and E-Service as provided in S.C. Code Ann. Regs. 103-817.1 unless excused from doing so for good cause shown.

D. Notice of Appearance. An attorney or other person authorized to represent a party before the commission pursuant to this regulation shall file with the commission a notice of appearance when retained or authorized to represent a party after commencement of a case.

E. Unopposed Matters in Which an Entity May Proceed without Counsel. Subject to the conditions specified in this regulation, an entity may proceed through an authorized agent in any unopposed case, including but not limited to the following:

- (1) application for approval of a tariff,
- (2) application for approval of a contract,
- (3) application for approval of an interconnection agreement between telephone carriers,
- (4) application for approval of a name change,
- (5) application to operate as a Class C motor carrier, including a charter passenger carrier, a charter bus, and a taxi, and
- (6) application of a mover of household goods for a certificate.

If the entity chooses not to use an attorney, it shall include in its submission a written statement from the entity's president, chairperson, general partner, owner, chief executive officer, or authorized agent which states substantially the following:

"I am owner, officer, director, or other person authorized to act on behalf of [Name of Company], and on behalf of [Name of Company], I have elected to submit [Title of Document] to the Public Service Commission of South Carolina without the benefit of legal counsel admitted to practice in South Carolina. In electing to file [Title of Document] without legal counsel, I acknowledge and agree to assume the risk, if any, of resulting adverse legal consequences."

However, if the case becomes opposed, the unrepresented entity must obtain legal representation by an attorney authorized to practice law in South Carolina in order for the commission to allow the matter to proceed.

F. Motion to Withdraw from Representation. An attorney or other person authorized to represent a party before the commission pursuant to this regulation must file a written motion to withdraw from representation of a party or from participation in proceedings.

#### 103-816. Written Correspondence.

All written communications shall be directed or hand-delivered to the Commission's physical address as listed at [www.psc.sc.gov](http://www.psc.sc.gov).

#### 103-817. Proceedings.

A. Nature of Proceedings. If required by law and upon filing of a pleading as set forth in R.103-819, et. seq., proceedings for the purpose of rulemaking, ratemaking, licensing, determining rights, duties, or privileges of any party, and undertaking an official inquiry for the purposes of gathering information or making determinations, which fall under the jurisdiction of the Commission, shall be conducted by one or more Commissioners, or by a hearing examiner through the development of a formal record.

#### B. Initiation of Proceedings.

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(1) All proceedings shall be initiated by filing with the Chief Clerk at the business offices at the Commission an original and copies, as determined by the Commission, of an appropriate pleading unless otherwise provided, as designated in R.103-819, et seq.

(2) The Chief Clerk may refuse to accept for filing any pleading that does not conform to the rules of the Commission, and shall furnish written notice to the party or the authorized representative within ten days after receipt, stating why it has not been accepted for filing.

### C. Conduct of Proceedings.

(1) All pleadings initiating proceedings shall be dated upon receipt and shall be assigned a docket number after filing, and all subsequent pleadings or correspondence shall refer to that docket number. Pleadings will be captioned in accordance with R.103-819, et seq., and shall be processed pursuant to these rules.

(2) The Chief Clerk, after filing of the pleadings, shall give the Commission notice of such filing at the next regular meeting of the Commission. Where provided by law, any proceeding initiated under these rules may be disposed of without hearing by Order of the Commission within 14 days after the pleading has been accepted for filing, upon the written opinion of the Commission that the pleading on its face shows that a hearing is not necessary, in the public interest, or for the protection of substantial rights.

(3) After any pleading has been accepted for filing, the Chief Clerk may:

(a) Serve the pleadings, as required, in accordance with R.103-830, or within fourteen (14) days, provide the party filing the pleading a Notice of Filing, and, where required by law, the party at its own expense shall publish such notice one time in newspapers having general circulation in the State, or, if applicable, in newspapers having general circulation in the party's service area. Except for good cause shown, proof of publication must be filed on or before the return date. The Chief Clerk, pursuant to other rules of the Commission, may require that the Notice of Filing be mailed to customers and other persons and a certificate of service be filed on or before the return date.

(b) Fix a date for hearing, as soon as practicable, and when a date is available on the docket calendar. If the hearing date has not been included in the Notice of Filing, the Chief Clerk shall prepare a Notice of Hearing, and shall forward such Notice of Hearing to all parties. Proof of service must be placed in the formal record.

(c) Assign a time and place for any public hearing necessary in the conduct of any proceeding. The Chief Clerk shall likewise cause the pleadings to be served pursuant to these rules or issue written notice of the filing of pleadings, which shall be published pursuant to law and notice of the hearing date assigned for the conduct of any formal proceeding, as provided by law.

(d) The Chief Clerk shall forward a copy of a Notice of Filing, a Prefile Testimony Letter, or a Transmittal Letter to all parties by electronic service or by U.S. Mail. The Chief Clerk shall forward a Notice of Filing and Hearing, a Notice of Hearing, or any other document containing a hearing date to all parties by electronic service or by certified mail.

(e) Require from a person filing a pleading a letter incorporating a statement presenting the number of witnesses the person expects to offer in the proceeding and an estimate of the time required for the presentation of testimony and exhibits.

(4) Public hearings in the conduct of proceedings shall be held pursuant to R.103-836, et seq.

D. Final Disposition of Proceedings. Proceedings shall be concluded upon the issuance of an order by the Commission or upon a settlement or agreement reached by all parties to the proceedings and formally acknowledged by the Commission by issuance of an order.

## 103-817.1. E-Filing and E-Service.

A. **Electronic Filing.** The electronic transmission of a document to the E-Filing System in accordance with this Regulation constitutes the filing of that document in accordance with Title 58 of the South Carolina Code and the Commission’s Regulations in Chapter 103 of the South Carolina Code of State Regulations.

B. **Official Record.** Where a document is E-Filed, the electronic version of that filing constitutes the official record. E-Filed documents have the same force and effect as documents filed by Traditional Means. Documents filed by Traditional Means may be converted to electronic format and made part of the docket by the Clerk’s Office. Once converted, the electronic version constitutes the official record.

C. **Timeliness.** A document transmitted and received by the E-Filing System on or before 11:59:59 p.m., Eastern Standard Time, shall be considered filed with the Commission on that date, provided it is subsequently accepted by the Commission. Nothing in this Regulation should be construed to reduce or extend any filing or service deadlines set by statute, the South Carolina Rules of Civil Procedure, or orders of the Commission, except requests for extensions of time to file documents. Such requests must be filed with and approved by the Commission.

D. “Notice of Electronic Filing” or “Notification of Electronic Filing” (“NEF”) is a notice generated by the E-Filing System at the time of a filing or other Commission action. An NEF is transmitted by email to all Authorized E-Filers who have filed a Notice of Appearance and are counsel of record in the case and includes a description of the filing and a list of parties to whom the NEF was transmitted.

E. **Electronic Service.**

(1) **Electronic Service of Process Not Authorized.** Service of process or service of any pleadings initiating cases cannot be accomplished through the E-Filing System. The E-Filing System may not be used for service of process of an application, petition, complaint, rule to show cause, subpoena, or any other pleading or document required to be personally served under Rule 4, SCRPC (South Carolina Rules of Civil Procedure).

(2) **Service of Other Papers on Authorized E-Filers by the E-Filing System.** Except as provided in sub-paragraphs (A) and (B) below, upon the E-Filing of any pleading, motion, or other paper subsequent to the filing initiating a case, the E-Filing System will generate and transmit an NEF to all Authorized E-Filers associated with that case after the filing has been accepted for processing by the Commission. Where the parties are proceeding in the E-Filing System and a pleading, motion, or other paper must be filed, made, or served under the Commission’s statutes or regulations or the SCRPC, upon the filer’s receipt of a confirmation email stating that the filing has been accepted for processing by the Commission, the E-Filing of that pleading, motion, or other paper, together with the transmission of an NEF, constitutes proper service under Rule 5, SCRPC, Title 58 of the South Carolina Code and Chapter 103 of the South Carolina Code of State Regulations, as to all other parties who are E-Filers in that case. It is the responsibility of an E-Filer to review the content of the E-Filed document in the E-Filing System to determine its force and effect.

(a) No NEF will be created at case initiation; however, the E-Filing System will transmit confirmations of receipt and acceptance of the filing.

(b) NEFs are transmitted only via email to representatives of parties of record. E-Filers should comply with Commission Regulation 103-805 (Representation) for entering an electronic notice of appearance when making an initial responsive filing in a case that was initiated via the E-Filing System.

(3) **Service Complete upon E-Filing.** Service of a pleading, motion, or other paper by NEF subsequent to the summons and complaint or other filing initiating a case is complete at the time of the submission and the Clerk’s Office acceptance of the pleading, motion, or other paper for E-Filing, provided an NEF is transmitted by the E-Filing System in accordance with paragraph (e)(2) of this Section. The act of E-Filing the pleading,

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motion or other paper is the equivalent of depositing it in the United States Mail under Rule 5(b)(1), SCRPC, Title 58 of the South Carolina Code and Chapter 103 of the South Carolina Code of State Regulations. The NEF constitutes proof of service under Rule 5(b), SCRPC, Title 58 of the South Carolina Code and Chapter 103 of the South Carolina Code of State Regulations, and the date of service shall be the date stated in the NEF as the "Official File Stamp." Where notice of the filing of a pleading, motion, or other paper is served by an NEF, the E-Filer need not file proof of service, but the E-Filer must retain a copy of the NEF as proof of service.

(4) Time to Respond Following Electronic Service. Computation of the time for a response after service by NEF is governed by Title 58 of the South Carolina Code and Chapter 103 of the South Carolina Code of State Regulations.

(5) Service by or upon a Party Who is Not an E-Filer in a Case.

(a) E-Filed motions, pleadings, or other papers that must be served upon a party who is not represented by an Authorized E-Filer in the case or who is a Traditional Filer must be served by a Traditional Service method in accordance with Rule 5, SCRPC, Title 58 of the South Carolina Code and Chapter 103 of the South Carolina Code of State Regulations. An Authorized E-Filer who has E-Filed a motion, pleading, or other paper prior to service of the motion, pleading, or other paper shall serve a paper copy of the corresponding NEF on the Traditional Filer(s). The Authorized E-Filer must also file proof of Traditional Service as to all other parties who are Traditional Filers.

(b) Traditional Filers must continue to serve all parties with a paper copy of the motion, pleading, or other paper by a Traditional Service method in accordance with Rule 5, SCRPC, Title 58 of the South Carolina Code and Chapter 103 of the South Carolina Code of State Regulations, and file a copy of the motion, pleading, or other paper with the Commission, together with proof of service, as required by Rule 5(d), SCRPC, Title 58 of the South Carolina Code and Chapter 103 of the South Carolina Code of State Regulations.

(6) Failed Transmission of NEF. If an Authorized E-Filer becomes aware that the NEF was not transmitted successfully to other Authorized E-Filers in the case, or that the NEF is deficient, the Authorized E-Filer shall, upon learning of the failure or deficiency, serve the E-Filed document by email, hand delivery, facsimile, or first-class mail. Proof of such service shall be E-Filed with the Commission within one business day of service.

### 103-823. Applications.

Applications are submitted to the Commission for any authorization or permission which the Commission is empowered to grant under its statutory authority, including applications for establishment or adjustment of rates and charges.

A. Content of Applications. Applications shall state clearly and concisely the authorization or permission sought, and shall refer to the specific statutory provision or other authority under which Commission authorization or permission is sought. Applications shall further set forth the following information:

(1) The precise legal name of the applicant, which shall indicate whether the applicant is a partnership, corporation, limited liability company, association, establishment, governmental subdivision, or other public or private organization.

(2) The name, title, address, e-mail address, and telephone number of the person to whom correspondence or communications relative to the application is to be addressed.

(3) The following data, in general rate establishment or adjustment applications, attached as exhibits and developed for a historic twelve-month test period unless otherwise directed. All schedules must be filed at the South Carolina jurisdictional level, if applicable or available. (All Filing Schedules indicated below must be

filed with the Commission in the order as outlined, and schedules approved by the Commission. The Schedules must be provided in Microsoft Excel format with all formulas intact.) Each electrical, natural gas, water or wastewater public utility shall develop and seek Commission approval of schedule templates for the implementation of this section:

Minimum Filing Requirements for Electrical and Gas Utilities (for Electrical Utilities and Gas Utilities That Have 100,000 or More Customers):

EXECUTIVE SUMMARY	
SCHEDULE A-1	Full Revenue Requirements Increase Requested
SCHEDULE A-2	Full Revenue Requirements Bill Comparison – Typical Monthly Bills
SCHEDULE A-3	Summary of Tariffs
RATE BASE	
SCHEDULE B-1	Test Year and Pro Forma Year Statement of Rate Base
SCHEDULE B-2	Rate Base Adjustments
SCHEDULE B-3	Two Year Balance Sheet
SCHEDULE B-4	Utility Plant and Other Relevant Rate Base Allocation Factors (if applicable)
SCHEDULE B-5	Plant Balances by Account and Sub-Account
SCHEDULE B-6	Depreciation Reserve Balances by Account and Sub-Account
SCHEDULE B-7	Capital Additions and Retirements
SCHEDULE B-8	Production Plant Additions (Electric Only)
SCHEDULE B-9	Construction Work in Progress
SCHEDULE B-10	Working Capital
SCHEDULE B-11	Miscellaneous Deferred Debits
SCHEDULE B-12	Other Deferred Credits
SCHEDULE B-13	Accounting Policy Changes Affecting Rate Base
SCHEDULE B-14	Deferred Income Taxes
SCHEDULE B-15	Excess Deferred Income Tax
NET OPERATING INCOME	
SCHEDULE C-1	Net Operating Income
SCHEDULE C-2a	Net Operating Income Adjustments
SCHEDULE C-2b	Accounting and Pro Forma Adjustments Matrix (If applicable)
SCHEDULE C-3	Five Year Analysis – Change in Costs
SCHEDULE C-4	Uncollectible Accounts
SCHEDULE C-5	Administrative Expenses
SCHEDULE C-6	Industry Association Dues (If requested in rates)
SCHEDULE C-7	Outside Professional Services (If requested in rates)
SCHEDULE C-8	Pension Cost (Account 228.3)
SCHEDULE C-9	Lobbying Expenses, Other Political Expenses and Civic/Charitable Contributions (If requested in rates)
SCHEDULE C-10	State and Federal Income Tax Calculation
SCHEDULE C-11	Gains and Losses on Disposition of Plant and Property That Was Included in Rate Base
SCHEDULE C-12	Transactions with Affiliated Companies
COST OF CAPITAL	
SCHEDULE D-1	Cost of Capital
SCHEDULE D-2	Cost of Capital – 5 Year History
SCHEDULE D-3	Short-Term Debt
SCHEDULE D-4	Long-Term Debt Outstanding
SCHEDULE D-5	Preferred Stock Outstanding
SCHEDULE D-6	Common Stock Data
SCHEDULE D-7	Financing Plans – Stock and Bond Issues
SCHEDULE D-8	Bond Rating – 5 Year History
SCHEDULE D-9	Credit Watch History – 5 Year History
SCHEDULE D-10	Credit Rating Reports – 5 Year History
COST OF SERVICE AND RATE DESIGN	

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SCHEDULE E-1	The most recently completed Cost of Service Study conducted not more than five years prior to the filing of the Company's Rate Case Application
SCHEDULE E-2	Cost of Service Study – Allocation of Rate Base Components to Rate Schedule, if not included in Schedule E-1
SCHEDULE E-3	Cost of Service Study – Functionalization and Classification of Rate Base, if not included in Schedule E-1
SCHEDULE E-4	Cost of Service Study – Functionalization and Classification of Expenses, if not included in Schedule E-1
SCHEDULE E-5	Development of Coincident and Non-Coincident Demands for Cost Study, if not included in Schedule E-1
MISCELLANEOUS	
SCHEDULE F-1	Business Contracts with Officers or Directors
SCHEDULE F-2	Proposed Public Notice including dollar and percentage proposed increase by customer class
SCHEDULE F-3a	Executive Compensation Summary (If requested in rates)
SCHEDULE F-3b	Executive Target Bonus (If requested in rates)
SCHEDULE F-4	Analysis of Salaries and Wages

Minimum Filing Requirements for Electrical and Gas Utilities (for Electrical and/or Gas Utilities That Have Fewer Than 100,000 Customers):

SCHEDULE A-1	Balance Sheet
SCHEDULE A-2	Profit and Loss Statement
SCHEDULE A-3	Accounting and Pro Forma Adjustments
SCHEDULE A-4	Computation of Proposed Increase or Decrease
SCHEDULE A-5	Effect of Proposed Increase or Decrease to Include Copies of Present and Proposed Tariffs
SCHEDULE A-6	Statement of Fixed Assets and Depreciation Reserve
SCHEDULE A-7	Rates of Return on Rate Base and on Common Equity
SCHEDULE A-8	Most Recent Cost of Service Study Conducted Not More Than Three Years Prior to Filing Company's Rate Case Application
SCHEDULE A-9	Proposed Public Notice including dollar and percentage proposed increase by customer class

Minimum Filing Requirements for Wastewater Utilities That Have Filed an Application for an Increase in Existing Rates and Charges:

SCHEDULE A-1	Statement of need justifying the proposed rate adjustments, including financial needs, rate design adjustments, or changes in operations
SCHEDULE A-2	Current income and expense statement for the preceding twelve months
SCHEDULE A-3	Proposed rate schedule
SCHEDULE A-4	Test year to be used
SCHEDULE A-5	Pro-forma income and expense statement using proposed rates applied to the proposed test year
SCHEDULE A-6	Balance sheet for two years, up to and including the test year
SCHEDULE A-7	Depreciation schedule by categories of plant or average service lives
SCHEDULE A-8	Number of present and expected customers in the following twelve months
SCHEDULE A-9	Cost justifications for proposed rates and charges, which indicate the cost drivers for the proposed increase
SCHEDULE A-9.5	Cost of service study completed not more than five years prior to company's filing for rate adjustment for utilities that have revenue of \$1,000,000 or more
SCHEDULE A-10	Filing or updating of performance bond
SCHEDULE A-11	Current or updated service area map must be included in the application filed by the utility
SCHEDULE A-12	Statement of total plant investment, which includes date of acquisition, original cost, capital improvements, accumulated depreciation, useful lives, current depreciation,

	retirements, forecasted retirements within twelve months of the test year, and contributions in aid of construction
SCHEDULE A-12.5	Construction work in progress and forecasted capital investment
SCHEDULE A-13	Most recent letter of approval including percentage of capacity from the South Carolina Department of Health and Environmental Control or the successor or equivalent component of the South Carolina Department of Environmental Services, dated not more than six (6) months prior to date of application
SCHEDULE A-14	Customer bill form
SCHEDULE A-15	Annual report on file and copy of the receipt showing last period gross receipts paid
SCHEDULE A-16	Pertinent or relevant information determined by the Commission
SCHEDULE A-17	Transactions with affiliated companies and affiliated company relationships if not included in company's annual report filed with the Commission
SCHEDULE A-18	Proposed public notice including dollar and percentage proposed increase by customer class

Minimum Filing Requirements for Wastewater Utilities That Have Filed an Application for an Establishment of Rates and Charges:

SCHEDULE A-1	Copy of articles of incorporation or partnership agreement
SCHEDULE A-2	Plat of proposed area to be served
SCHEDULE A-3	Copy of engineering plans and specifications designed or certified to be in accordance with good engineering practices by a professional engineer registered in South Carolina
SCHEDULE A-4	Construction permit from the South Carolina Department of Health and Environmental Control or the successor or equivalent component of the South Carolina Department of Environmental Services, approving the engineering plans and specifications
SCHEDULE A-5	Schedule of proposed rates and charges and cost justifications including tap fees with attached schedules depicting labor costs, materials costs, and miscellaneous costs
SCHEDULE A-6	Number of customers proposed to be served and the capacity of the system
SCHEDULE A-7	Financial statement showing proposed plant investment by categories
SCHEDULE A-8	Depreciation schedule by categories of plant or average service lives
SCHEDULE A-9	Pro-forma income and expense statement showing the effect of using the proposed rates based on plant capacity
SCHEDULE A-10	Filing or updating of performance bond
SCHEDULE A-11	Statement by a professional engineer that the system was built and installed according to plans and specifications on file with the Commission and will furnish adequate service for the area to be served, if applicable
SCHEDULE A-12	Most recent letter of approval including percentage of capacity from the South Carolina Department of Health and Environmental Control or the successor or equivalent component of the South Carolina Department of Environmental Services, dated not more than six (6) months prior to date of application
SCHEDULE A-13	Customer bill form
SCHEDULE A-14	Pertinent or relevant information determined by the Commission

Minimum Filing Requirements for Water Utilities That Have Filed an Application for an Increase in Existing Rates and Charges:

SCHEDULE A-1	Statement of need justifying the proposed rate adjustments
SCHEDULE A-2	Current income and expense statement for the preceding twelve months
SCHEDULE A-3	Proposed rate schedule
SCHEDULE A-4	Test year to be used



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SCHEDULE A-5	Pro-forma income and expense statement using proposed rates applied to the proposed test year
SCHEDULE A-6	Balance sheet
SCHEDULE A-7	Depreciation schedule by categories of plant or average service lives
SCHEDULE A-8	Number of present and expected customers in the following twelve months
SCHEDULE A-9	Cost justifications for proposed rates and charges, including tap fees, with attached schedules depicting labor costs, materials costs, and miscellaneous costs
SCHEDULE A-9.5	Current cost of service study completed not more than five years prior to company's filing for rate adjustment for utilities that have revenue of \$1,000,000 or more
SCHEDULE A-10	Filing or updating of performance bond
SCHEDULE A-11	Current or updated service area map
SCHEDULE A-12	Statement of total plant investment
SCHEDULE A-12.5	Construction work in progress and forecasted capital investment
SCHEDULE A-13	Most recent letter of approval including percentage of capacity from the South Carolina Department of Health and Environmental Control or the successor or equivalent component of the South Carolina Department of Environmental Services, dated not more than six (6) months prior to date of application
SCHEDULE A-14	Customer bill form
SCHEDULE A-15	Annual report on file and a copy of the receipt showing last period gross receipts paid
SCHEDULE A-16	Pertinent or relevant information determined by the Commission
SCHEDULE A-17	Transactions with affiliated companies and affiliated company relationships if not included in company's annual report filed with the Commission
SCHEDULE A-18	Proposed public notice including dollar and percentage proposed increase by customer class

#### Minimum Filing Requirements for Water Utilities That Have Filed an Application for an Establishment of Rates and Charges:

SCHEDULE A-1	Copy of articles of incorporation or partnership agreement
SCHEDULE A-2	Plat of proposed area to be served
SCHEDULE A-3	Copy of engineering plans and specifications designed or certified to be in accordance with good engineering practices by a professional engineer registered in South Carolina
SCHEDULE A-4	Construction permit from the South Carolina Department of Health and Environmental Control or the successor or equivalent component of the South Carolina Department of Environmental Services approving the engineering plans and specifications
SCHEDULE A-5	Schedule of proposed rates and charges and cost justifications including tap fees with attached schedules depicting labor costs, materials costs, and miscellaneous costs
SCHEDULE A-6	Number of customers proposed to be served and the capacity of the system
SCHEDULE A-7	Financial statement showing proposed plant investment by categories
SCHEDULE A-8	Depreciation schedule by categories of plant or average service lives
SCHEDULE A-9	Pro-forma income and expense statement showing the effect of using the proposed rates based on plant capacity
SCHEDULE A-10	Filing or updating of performance bond
SCHEDULE A-11	Statement by a professional engineer that the system was built and installed according to plans and specifications on file with the Commission and will furnish adequate service for the area to be served
SCHEDULE A-12	Letter from the South Carolina Department of Health and Environmental Control or the successor or equivalent component of the South Carolina Department of Environmental Services, approving the system for operation, dated not more than six (6) months prior to date of application
SCHEDULE A-13	Customer bill form
SCHEDULE A-14	Pertinent or relevant information determined by the Commission

(3.1) A company must file its direct testimony at the same time as its application.

(3.2) All pleadings and testimony filed with the Commission must be in searchable pdf format.

(4) All other information required by statute or by the Commission’s Rules and Regulations under which a specific type of application is filed, or as may be required by the Commission in a particular proceeding.

B. Form of Applications. Except where otherwise prescribed by the Rules and Regulations of the Commission under which a specific type of application is filed, applications shall conform to the requirements of R. 103-819 through R. 103-822.

103-830. Filing and Service of Pleadings.

All pleadings shall be filed with the Chief Clerk of the Commission and served on the Office of Regulatory Staff unless and until it chooses not to participate in a proceeding.

A. Service of Complaints and Answers.

(1) A complainant requesting a hearing shall file the complaint with the Chief Clerk. The Chief Clerk shall furnish a copy of the complaint to the defendant within 14 days of filing.

(2) The defendant shall serve its answer on the complainant and shall file its answer with certification of service with the Commission within 30 days of receipt of the complaint, unless an extension of time is granted for good cause shown. Any defendant failing to file its answer within such period, unless an extension of time is granted, shall be deemed in default and all relevant facts stated in such complaint may be deemed admitted.

B. Service of Petitions and Answers.

(1) If a person other than the petitioner is named in a petition for a declaratory order or in a petition for a rule to show cause, the Chief Clerk shall cause a copy of the petition to be furnished to such named person within 14 days of the filing of the petition.

(2) The person named in a petition for a declaratory order or in a petition for a rule to show cause shall serve its answer on the petitioner and shall file its answer with certification of service with the Chief Clerk within 30 days of the receipt of the petition from the Chief Clerk unless an extension of time is granted for good cause shown.

(3) A person filing a petition to intervene or a party of record filing a petition for rehearing or reconsideration shall file the petition with certification that service of the petition has been made on all parties of record. The Chief Clerk shall make available to the person seeking to intervene a service list consisting of the names of all parties of record.

C. Service of Amendments. Any amendment to a pleading shall be served and answered, if applicable, according to the requirements specified herein for the type of pleading sought to be amended.

103-830.1. Service Between Parties of Record.

Upon written agreement by all the parties in a docket, service of filings made in a docket at the commission may be made through e-mail or electronic service.

Upon a notice of appearance by a party in a docket or, in the case of an intervenor, the filing of a Petition to Intervene, service of filings made in a docket at the Commission shall be made through email or electronic service. The appearance of a party, or the filing of a Petition to Intervene in the docket evidences the consent of the party or Intervenor to accept service by email or electronic service. The notice of appearance filed by the

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party or Intervenor shall include an email address to receive electronic service of filings. If a party does not have the ability for electronic service, the party shall be served by traditional means.

### 103-833. Written Interrogatories and Request for Production of Documents and Things.

A. Any material relevant to the subject matter involved in the pending proceeding may be discovered unless the material is privileged or is hearing preparation attorney work product prepared for the pending proceeding or in anticipation of litigation.

B. Unless under special circumstances and for good cause shown, written interrogatories shall not be served less than 10 days prior to the date assigned for commencement of hearing. Any party of record may serve upon other parties or parties of record written interrogatories to be answered by the party served. If the party served is a public or private corporation, partnership, limited liability company, association, or governmental agency, any officer or agent who possesses the desired information may respond to the interrogatories. Copies of interrogatories served shall also be filed with the Chief Clerk. Each interrogatory shall be answered separately and fully in writing, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the individual making them and subscribed by an appropriate verification. Objections are to be signed by the authorized representative or individual making them. The person upon whom the interrogatories have been served shall serve a copy of the answers and objections within the time period designated by the party of record submitting the interrogatories, but not less than 20 days after the service thereof, unless the time is extended or shortened by the Commission for good cause shown.

C. Unless under special circumstances and for good cause shown, requests for production of documents and things shall not be served less than 10 days prior to the date assigned for commencement of hearing. Any party of record may serve upon other parties or parties of record requests for production of documents and things to be answered by the party served. If the party served is a public or private corporation, partnership, limited liability company, association, or governmental agency, any officer or agent who possesses the desired information may respond to the requests for production of documents and things. Copies of requests for production of documents and things served shall also be filed with the Chief Clerk. Each request for production of documents and things shall be answered separately and fully in writing, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the individual making them and subscribed by an appropriate verification. Objections are to be signed by the authorized representative or individual making them. The person upon whom the requests for production of documents and things have been served shall serve a copy of the answers and objections within the time period designated by the party of record submitting the requests for production of documents and things, but not less than 20 days after the service thereof, unless the time is extended or shortened by the Commission for good cause shown.

### 103-835. Other Discovery Procedures.

The S. C. Rules of Civil Procedure govern all discovery matters not covered in Commission Regulations. Upon motion by a party, the Commission may entertain proposed modifications to discovery procedures and schedules.

All discovery, including requests and responses to discovery, shall be served upon all parties, upon request, and with respect to confidential and or proprietary materials, the execution of an appropriate non-disclosure agreement or protective order. Every party is entitled to receive or to request a copy of all prior discovery in the proceeding upon the granting of intervention.

This section is subject to the limitations contained in S.C. Code Ann. Section 58-4-55.

### 103-836. How Hearings are Set.

The Commission will assign a time and place for hearing and shall give notice thereof as required by law.

The Commission is authorized to conduct such hearings virtually or by other remote means, as needed.

#### 103-841. Presiding Officer.

A. In General. When evidence is to be taken in a proceeding before the Commission, any Commissioner or any hearing examiner designated by the Commission may preside at the hearing.

B. Powers and Duties of Presiding Officer. A presiding officer shall have the duty to conduct full, fair, and impartial hearings, to take appropriate action to avoid unnecessary delay in the disposition of proceedings, and to maintain order; and shall possess all powers necessary to that end, including the following:

- (1) To administer oath and affirmations and the presiding officer may appoint a designee to administer oaths and affirmations;
- (2) To order subpoenas issued and to provide for other methods of discovery;
- (3) To receive evidence and rule upon all objections and motions that do not involve final determination of proceedings;
- (4) To take such other action as may be necessary and appropriate to the discharge of duties consistent with the statutory authority or other authorities under which the Commission functions.

#### 103-845. Witnesses.

A. In General. Witnesses shall be examined orally. Witnesses presenting testimony shall be sworn, or shall affirm, before their testimony shall be deemed evidence in the proceeding or any questions are put to them. All exhibits, no matter the size, must be easily readable and legible.

B. Cumulative Testimony Restricted. The presiding officer may limit the number of witnesses whose testimony may be merely cumulative. In order to enforce this section, the presiding officer may require a clear statement on the record of the nature of the testimony to be given by any witness proffered.

C. Prepared Statements and Exhibits. Copies of witness testimony and exhibits shall be prefiled with the Commission as prescribed. A witness may read into the record, as his or her direct testimony, statements of fact or expressions of his or her opinion prepared by him or her, or written answers to interrogatories of counsel. A prepared statement of a witness may also be received as an exhibit. All parties of record, insofar as it is practicable, should prefile with all other parties of record copies of prepared testimony and exhibits that the party of record proposes to use during a hearing. In proceedings involving utilities, the Commission shall require any party and the Office of Regulatory Staff to file copies of testimony and exhibits and serve them on all other parties of record within a specified time in advance of the hearing. In proceedings involving companies other than utilities, the Commission may require any party and the Office of Regulatory Staff to file copies of testimony and exhibits and serve them on all other parties of record within a specified time in advance of the hearing. Except as provided in S.C. Code Ann. Regs. 103-823, and unless the Commission shall otherwise order, an Applicant or Complainant whose case initiates a docket which requires a hearing shall file supporting written testimony with or without exhibits within two weeks of filing its application, tariff, petition, request, or complaint or within two weeks of the Commission Staff issuing a Notice of Hearing and/or a Notice of Filing and Hearing. This shall not apply to an individual filing a Formal Complaint who is appearing on his or her own behalf, fuel adjustment clause, and purchased gas adjustment cases.

#### 103-848. Exhibits.

A. Size of Exhibits. Except by special permission of the presiding officer, no prepared exhibits offered as evidence shall be of greater size, when folded, than 8 1/2 inches by 11 inches.

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B. Copies of Exhibits. When exhibits are offered in evidence, the original shall be furnished to the reporter, and the party offering exhibits should also be prepared to furnish a copy to each Commissioner sitting and the presiding officer, each party of record, and the staff, unless such copies have been previously furnished or the presiding officer directs otherwise. Whenever practicable, the parties should exchange copies of exhibits that they propose to use prior to the hearing. All exhibits, no matter the size, must be easily readable and legible.

C. Marking of Exhibits. All exhibits shall be marked numerically in the order of identification.

### 103-852. Service of Orders.

A. All Orders representing final disposition of a proceeding shall be filed with the Chief Clerk, who shall serve copies thereof upon all parties of record or their authorized representative. Such service shall be by electronic service, certified mail, registered mail, or by delivery to the parties or their attorneys, as may be appropriate.

B. All parties of record, including attorneys of record or legal representatives, who electronically file documents through the Docket Management System consent to service of orders through email or electronic service, and such service is effective upon the email or electronic service being sent. The notice of appearance filed by the party or the Petition to Intervene filed by an Intervenor shall include an email address to receive electronic service of orders and filings. All parties of record, including attorneys of record or legal representatives, must maintain with the Clerk's Office current contact information including email addresses and mailing address.

C. All parties of record, including attorneys of record or legal representatives, who electronically file documents through the Docket Management System are served a Commission Order immediately when the Clerk's Office electronically enters the Order on the Docket Management System.

D. If any party of record does not have the ability to receive email or electronic service, the party shall be served by traditional means of certified mail, registered mail, or by delivery to the parties or their attorneys, as may be appropriate. Where service is made by mail, service is complete upon mailing to the address provided by the party of record.

### 103-853. Finality of Decision.

All proceedings before the Commission shall be disposed of by issuance of an Order as defined in R.103-804(K) served upon all parties of record.

A. Effective Date of Orders. Commission Orders shall take effect and become operative when served by electronic service, registered or certified mail, unless otherwise designated, and shall continue in force and effect either for a period which may be designated therein or until rescinded, modified, or amended by the Commission. If an Order cannot be complied with within prescribed time limit, the Commission may grant such additional time as in its judgment is reasonably necessary to comply with the Order.

B. Rescinding, Modifying, Amending Order or Decision. The Commission may rescind, modify, or amend any Order. If the rescission, modification, or amendment pertains to other than clerical errors or omissions, parties of record shall be provided notice and opportunity to be heard. Any Order rescinding, modifying, or amending a prior Order shall have the same effect as is provided for in original Orders, but no such Order shall affect the legality or validity of any acts done pursuant to the original Order before notice of such rescission, modification, or amendment.

### 103-855. Repealed.

## **Fiscal Impact Statement:**

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

**Statement of Rationale:**

Changes to Article 8 Practice and Procedure Regulations are needed to improve efficiency and transparency of the Commission's practices and procedures.

Document No. 5229  
**DEPARTMENT OF SOCIAL SERVICES**  
 CHAPTER 114  
 Statutory Authority: 1976 Code Section 63-13-180

114-528. Family Day Care Homes.

**Synopsis:**

The Department of Social Services is repealing Regulation 114-528 and proposing Regulations 114-530 to 114-537 to establish and maintain standards for family child care homes that are reasonably aligned with recommended standards of national organizations and which further the Department's mission to establish and maintain standards that protect the health, safety, and well-being of children receiving care in family child care homes.

The Department of Social Services is responsible for establishing and promulgating rules and regulations for the proper operation of family child care homes and for the care and protection of children who are in family child care homes. The existing regulations regarding family child care homes (S.C. Code of Regulations 114-528) need to be repealed and replaced with proposed Regulations 114-530 through 114-537.

The Department of Social Services is proposing regulations that set forth the requirements for family child care homes. The proposed regulations are designed to promote the health, safety, and welfare of the children who are to be served by assuring safe and adequate physical surroundings and healthful food and by assuring supervision and care of the children by capable, qualified personnel of sufficient number.

Section-by-Section Discussion:

114-528. Family Day Care Homes.

1. Delete Regulation 114-528 Sections A through H in its entirety
2. Replace with Proposed Regulations 114-530 (A) which sets forth definitions
3. Add 114-531(A) through (G) which sets forth procedures for registration and licensure
4. Add 114-532(A) through (H) which sets forth requirements for management, administration, and staffing
5. Add 114-533(A) through (G) which sets forth requirements for supervision and discipline
6. Add 114-534(A) through (I) which sets forth requirements for health, sanitation, and safety
7. Add 114-535(A) through (D) which sets forth requirements for the physical site
8. Add 114-536(A) through (D) which sets forth requirements for food preparation and service
9. Add 114-537(A) through (C) which sets forth requirements for infant care

The Notice of Drafting was published in the *State Register* on May 26, 2023.

**Instructions**

Print the regulation as shown below. All other items remain unchanged.

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### Text:

#### FAMILY DAY CARE HOMES

(PROVIDE CARE FOR NO MORE THAN SIX CHILDREN)

114-528. Repealed.

#### FAMILY CHILD CARE HOMES

(PROVIDE CARE FOR NO MORE THAN SIX CHILDREN)

114-530. Family Child Care Homes.

##### A. Definitions.

Terms used in South Carolina Regulations, Chapter 114, Article 5, Part A, shall be all definitions cited in Section 63-13-20 et seq., Code of Laws of South Carolina in addition to the definitions which follow:

(1) Application: An original or a renewed request for registration or license of a family child care home requiring a completed Department application form, completed Department inspection study, current criminal history background checks on all required persons, and other related information deemed necessary by the Department to make a determination of issuance or non-issuance of a new or current registration or license.

(2) Caregiver: The operator of a family child care home and any person, including household members, whose duties include direct care, supervision, and guidance of children in a family child care home.

(3) Central Registry of Child Abuse and Neglect: An automated, computerized listing, maintained by the Department containing the name(s), address(es), birth date(s), identifying characteristics and other information about an individual(s) who has been listed on the registry due to the determination of perpetrating abuse or neglect upon a child.

(4) Child: An individual, from birth through twelve (12) years of age (chronologically), receiving care in a family child care home, or up to eighteen (18) years of age if the child qualifies as special needs.

(5) Child with special needs: A child with a physical or mental impairment that substantially limits one or more major life activity, a history of such an impairment, or a perception by others of such an impairment.

(6) Complaint: A written statement reporting unsatisfactory conditions in a family child care home.

(7) Corrective Action Plan: A contract between the operator and the Department wherein the operator agrees to follow a plan of action to correct deficiencies where the Department determined the operator failed to meet South Carolina child care licensing laws or regulations.

(8) Department: The Department of Social Services.

(9) Emergency Person. An individual not regularly employed by the facility who is immediately available to serve as staff in the facility during emergency situations.

(10) Family Child Care Home: A facility within a residence occupied by the operator in which child care is regularly provided for no more than six children, unattended by a parent or legal guardian, including those children living in the home and children received for child care who are related to the resident caregiver. However, an occupied residence in which child care is provided only for a child or children related to the resident caregiver or only for the child or children of one unrelated family or only for a combination of these children is not a family child care home.

(11) Household member: A person who resides in a family child care home, maintains clothing and personal effects at the household address, and/or eats or sleeps at the household address on a regular basis.

(12) Infant: A child age twelve (12) months or younger.

(13) Injunctive Action: Proceedings initiated with the appropriate court of law requesting the court to order a person to do or cease a specific action.

(14) License: A written notice issued by the Department for a two-year period to a family child care home approving the commencement of operations of a family child care home in accordance with the provisions of these regulations and Suggested Guidelines for Operators of Family Child Care Homes.

(15) Operator: The person eighteen (18) years or older, who lives in the home and has signed and submitted a Department application form and other requirements to the Department in order to obtain a family child care home registration or license. The operator has the ultimate responsibility of the family child care home and must be the person in charge of supervising the children in the family child care home.

(16) Overnight Care: Care provided to children by the family child care home defined in these regulations from 1:00 a.m. to 6:00 a.m.

(17) Parent: The biological or adoptive mother and father, legal guardian of the child or individual with legal custody of the child.

(18) Registration: A written notice issued by the Department for a one-year period to a family child care home approving the commencement of operations of a family child care home in accordance with these regulations.

(19) Regularly or on a regular basis: These terms refer to the frequency with which child care services are available and provided at a family child care home in any one week; these terms mean the availability and provision of periods of child care on more than two days in such week.

(20) Related: Any of the following relationships by marriage, blood, or adoption: parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, or cousin of the first degree.

(21) Renewal: Granting an extension of registration or license.

(22) Revocation: To void the regular license of a family child care home.

(23) Sex Offender Registry: A statewide and national computerized listing of names and other identifying information on convicted sex offenders maintained and updated by the State Law Enforcement Division (SLED) and authorized by Section 23-3-400 et. seq., Code of Laws of South Carolina, 1976, amended. The National Sex Offender Registry, established under the Adam Walsh Child Protection and Safety Act of 2006, Pub.L. 109-248, requires anyone convicted of a criminal offense against a victim who is a minor or a sexually violent offense to register as a sex offender.

(24) Staff: Full-time and part-time administrative, program, service and volunteer personnel, including emergency persons.

(25) Supervision: Care provided to an individual child or group of children. Adequate supervision requires awareness of and responsibility for the ongoing activity of each child, knowledge of activity requirements and children's needs and accountability for their care. Adequate supervision also requires the operator and/or staff being near and having ready access to children in order to intervene when needed.

(26) Training: Participation by operators and caregivers during the calendar year in workshops, conferences, support groups, educational or provider associations, formal schooling, in-service training or planned learning opportunities provided by a child day care operator, director, other staff, or consultants. Training shall be age appropriate for the child population served by the family child care home and in such subject areas related to: child care, child growth and development, and/or early childhood education, nutrition, infection control/communicable disease management and causes, health and safety, signs and treatment of child abuse and/or neglect. Training for operators may also be in areas related to day care program administration and shall include alternatives to corporal punishment.

(27) Volunteer: An individual parent, grandparent, other professional or skilled individual artist or crafts person at least sixteen (16) years of age infrequently assisting with the daily activities for children in a family child care home who provides services without compensation and who is supervised by an operator or caregiver at all times when providing direct care to children. An individual meeting this definition is subject to compliance with the same applicable regulations as paid family child care home caregivers.

(28) Withdrawal: To void the registration of a registered family child care home.

#### 114-531. Procedures.

##### A. Application for a Registration

(1) A potential operator of a family child care home may obtain information about the registration or licensure process by contacting the Department's regional child care licensing office.

(2) A potential operator of a family child care home must attend orientation to obtain an application packet and instructions regarding the registration process.



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(3) The Department representative shall provide the applicant with the required number of forms, a copy of the current Suggested Standards and Regulations for Family Child Care Homes, a copy of Section 63-13-10 et. seq., Code of Laws of South Carolina, (Child Care Facilities Statute) and a copy of sections of the Children's Code which are related to child abuse and neglect, with an explanation of procedures and information required by the Department.

(4) The family child care home applicant shall have a working, listed telephone in the family child care home and shall make the telephone number available to parent(s)/guardian(s) of children enrolled in the family child care home and to Department staff. The telephone number must be listed in all appropriate directories to ensure emergency identification and response.

(5) The applicant shall:

(a) Complete, sign, and submit originals of the following forms: Application to Operate a Child Care Facility (DSS 2902), Original or Renewal of Registration of Family Child Care Home (DSS 2922), Household Member List (DSS 2927) and any additional forms required by the Department.

(b) The operator, household members fifteen (15) years of age and older, substitute and regular caregivers, emergency persons, and staff who are regularly present during the hours of operation, and volunteers shall undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division (SLED) to determine any state criminal history and a fingerprint-based background check to be conducted by the Federal Bureau of Investigation (FBI) to determine any other criminal history.

(c) The fingerprint checks shall be repeated if a person is not employed by or does not provide caregiver services in a child care center, group childcare home, family child care home, church or religious center or child care provider that delivers services for which Child Care Development Fund financial assistance is provided for six (6) months or longer.

(d) The results of the fingerprint-based background checks shall be repeated every five (5) years.

(e) The person shall be subject to a state sex offender check which includes a check of the National Sex Offender Registry. An original DSS 2924, Central Registry for Release of Information and Compliance Statement on the operator, household members eighteen (18) years of age or older, substitute and regular caregivers, emergency persons, and staff who are regularly present during the hours of operation, and volunteers along with the appropriate fee for South Carolina and paid for each state where such staff or household member resided during the preceding five years.

(f) Submit three (3) original DSS 2908, Child Care Reference Release Statements completed by the person to be used as a reference. Persons providing references must be unrelated by blood or marriage to the applicant.

(g) Read the Suggested Standards For Family Day Care Homes.

(h) Furnish or review with parent(s)/guardian(s) of each child to be enrolled in the family child care home, a copy of the Suggested Standards.

(i) Secure a signed statement from each parent/guardian verifying that they have reviewed the Suggested Standards.

(j) Send required copies of completed and signed applications, required information regarding references and all signed statements from parent(s)/guardian(s) to Department staff.

(k) Submit an original zoning approval letter from the city or county zoning office.

(6) Department staff shall:

(a) Prior to issuing a registration, offer consultation through employed staff or other qualified persons to assist an applicant in meeting and maintaining suggested standards for family child care homes;

(b) Prior to issuing a registration, visit the potential family child care home to determine compliance with applicable regulations, giving the applicant at least two (2) business days' notice prior to the visit;

(c) Prior to issuing a registration and within thirty (30) days of receipt of references, contact by telephone the persons listed as references by the applicant and document their comments;

(d) Review the application material, the visit report and the references report, and consider any previous applications, inspections or withdrawals regarding the operator.

(e) If all regulatory requirements are met, the Department shall issue a regular registration and mail the regular registration directly to the operator.

(7) Provisional Registration

(a) Provisional registration may be granted only when the Department is satisfied that the regulations can and will be met within a reasonable time and the deviations from the regulations do not seriously threaten the safety of children.

(b) If a provisional registration is issued, the Department shall notify the operator in writing of the deficiencies to be corrected. The deficiencies shall be cited on the back of the provisional registration and shall include the appropriate regulation number(s).

(c) Provisional registration may not be effective for any longer than one (1) year.

(8) Denial of Application to Register a Family Child Care Home

(a) The Department may deny the application for registration if:

(i) The health or safety of any child in the family child care home is at risk;

(ii) The operator previously enrolled or currently has enrolled children beyond the limits permitted;

(iii) The operator, staff, volunteers, or household members have been convicted of crimes that would exclude them from working in a family child care home; or

(iv) The operator fails to comply with the registration procedures provided.

(b) If the Department denies an application for registration, the Department shall give the applicant written notice by certified or registered mail indicating the reason(s) for the denial and the right of the applicant to appeal the denial in accordance with the Department's fair hearing regulations.

(c) The applicant has thirty (30) days from receipt of the notification of denial of their application to appeal the decision. If no written appeal is made, the application shall be deemed denied as of the termination of the thirty-day period.

(d) If a family child care home is found to be in operation after the Department has denied the application for a registration and the administrative appeal has been completed, the Department shall pursue an injunctive action.

B. Procedures for Registration Renewal.

(1) Registered family child care homes shall apply for renewal of registration every year.

(2) The Department shall:

(a) Advise the operator in writing of the date and requirements for renewal 120 days prior to the expiration of the current registration.

(b) Offer consultation through staff or qualified persons to assist an applicant in meeting and maintaining suggested standards for family child care homes.

(c) Visit the family child care home to determine compliance with applicable regulations, giving the applicant at least two (2) business days' notice prior to the visit.

(3) The operator shall:

(a) Complete, sign and submit originals of the following forms: Application to Operate a Child Care Facility (DSS 2902), Original or Renewal of Registration of Family Child Care Home (DSS 2922), Household Member List (DSS 2927) and any additional forms required by the Department;

(b) Complete a current South Carolina State Law Enforcement Division (SLED), Federal Bureau of Investigation (FBI), and National Crime Information Center National Sex Offender Registry (NCIC) criminal history background checks for new household members eighteen (18) years of age or older, new substitute(s), new emergency person(s), and new staff who are regularly present during the hours of operation and new volunteers. The fingerprint reviews required by this subsection are required to be repeated every five years for the operator, staff, household members, substitutes, emergency persons, and volunteers;

(c) Submit an original DSS 2924, Central Registry for Release of Information and Compliance Statement, which includes a check of the national sex offender registry, on the operator and household members eighteen (18) years of age and older, substitute and regular caregiver(s), emergency person(s), staff who are regularly present during the hours of operation and volunteers along with the appropriate fee for South Carolina and for each state where such staff or household member resided during the preceding five years;

(d) Submit completed DSS 2909, Consumer Parent Statements signed by the parents/guardians of all children enrolled in care stating that they have been furnished a copy of the regulations; and

(e) Ensure all caregivers have the required training.

(4) The Department shall review the registration renewal materials and:

(a) Issue a regular registration if all regulatory requirements have been met; and

(b) Mail the registration directly to the operator; or

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(c) If the application for family child care home does not meet all requirements or regulations, place the operator on a corrective action plan or deny the application for registration renewal.

### (5) Denial of Application to Renew Registration of a Family Child Care Home

(a) If the Department denies an application for renewal of a registration, the Department shall give the applicant written notice by certified or registered mail indicating the reason(s) for the denial and the right of the applicant to appeal the decision in accordance with the Department's fair hearing regulations.

(b) The applicant has thirty (30) days from receipt of the notification of denial of their application to appeal the decision. If no written appeal is made, the application shall be deemed denied as of the termination of the thirty-day period.

(c) If a family child care home is found to be in operation after the Department has denied the application to renew a registration and the administrative appeal procedure has been completed, the Department shall pursue an injunctive action.

### C. Provisions of a Registration.

(1) Registration issued by the Department to a family child care home operator shall be valid for one year from date of issuance, unless withdrawn by the Department or voluntarily surrendered by the operator. If the family child care home ceases operation, the registration shall be returned to the Department within thirty (30) days of family child care home closure.

(2) Registered family child care homes shall comply with all zoning ordinances and requirements.

(3) The current registration shall be displayed in a prominent location at all times and the registration number shall be stated in all advertisements of the family child care home.

(4) The registration shall state the name of the operator, the address, the type of family child care home, the date on which the registration was issued and will expire, and the maximum number of children to be present in the family child care home during operating hours.

(5) The number of children present in the family child care home during operating hours shall not exceed the number specified on the registration.

(6) A change in location shall automatically void the registration. The registration cannot be transferred nor sold from one individual to another.

(7) The Department shall withdraw the registration if:

(a) The health and safety of the children is determined to be at risk or threat of harm;

(b) The operator cares for more children than the number stated in the registration;

(c) The operator fails to comply with the registration procedures defined in statute and these regulations;

(d) The operator or household members have been convicted of crimes that would exclude them from working in a family child care home or appear on the sex offender or central registries;

(e) The operator knowingly employs staff or volunteers who have been convicted of crimes that would exclude them from working in a family child care home or appear on the sex offender or central registries; or

(f) The operator fails to allow access to entire home, premises, and business on the premises during any of the Department's visits or investigations.

(8) An operator whose registration has been withdrawn by the Department shall be given written notice by certified or registered mail. The notice shall contain the reason(s) for the proposed action and shall inform the operator of the right to appeal the decision in writing within thirty (30) calendar days after receipt of the notice.

(9) If no written appeal is made within thirty (30) days, the Department shall withdraw the registration effective upon expiration of the 30-day appeal period.

(10) The application for original registration or renewal may be denied or the registration may be withdrawn by the Department if the operator or any staff, including substitute caregiver(s), volunteer(s), emergency person(s) or household member(s), abuses or neglects any child as defined in Section 63-7-20, South Carolina Code of Laws, 1976, amended.

### D. Application for a License

(1) A potential operator of a family child care home may obtain information about the licensure process by contacting the Department's regional child care licensing office.

(2) A potential operator of a family child care home shall attend orientation to obtain an application packet and instructions regarding the licensure packet.

(3) The Department representative shall provide the applicant with the required number of forms, a copy of the current Suggested Standards and Regulations for Family Child Care Homes, a copy of Section 63-13-10 et.

seq., Code of Laws of South Carolina (Child Care Facilities Statute) and a copy of section of the Children's Code which are related to child abuse and neglect, with an explanation of procedures and information required by the Department.

(4) The applicant shall:

(a) Complete, sign and submit originals of the following forms: Application to Operate a Child Care Facility (DSS 2902), Original or Renewal of Registration of Family Child Care Home (DSS 2922), Household Member List (DSS 2927) and any additional forms required by the Department;

(b) Complete a current South Carolina State Law Enforcement Division (SLED), Federal Bureau of Investigation (FBI), and National Crime Information Center National Sex Offender Registry (NCIC) criminal history background checks for new household members eighteen (18) years of age or older, new substitute(s), new emergency person(s), and new staff who are regularly present during the hours of operation and new volunteers. The fingerprint reviews required by this subsection are required to be repeated every five years for the operator, staff, household members, substitutes, emergency persons, and volunteers;

(c) Submit an original DSS 2924, Central Registry for Release of Information and Compliance Statement, which includes a check of the national sex offender registry, on the operator and household members eighteen (18) years of age and older, substitute and regular caregiver(s), emergency person(s), staff who are regularly present during the hours of operation and volunteers along with the appropriate fee for South Carolina and for each state where such staff or household member resided during the preceding five years;

(d) Submit an original zoning approval letter from the city or county zoning office;

(e) Submit three (3) original reference letters from people unrelated by blood or marriage to the applicant;

(f) Submit a Fire/Health Inspection Report (DSS 2905);

(g) Obtain a health care professional's certification that operator, household member(s) fifteen (15) years of age or older, staff, and emergency person(s) are free from Tuberculosis;

(h) Submit an original Staff Health Assessment (DSS 2926) attesting to the health of the operator, household member(s) fifteen (15) years of age or older, staff, and emergency person(s);

(i) Submit an original Medical Statement (DSS 2901) attesting to the health of operator, household member(s), staff, and emergency person(s);

(j) Have a working telephone in the home and make the telephone number available to parent(s)/guardian(s) of children enrolled in the family child care home, and to the Department. The telephone number shall be listed in all appropriate directories to ensure emergency identification and response;

(k) Demonstrate compliance with the Suggested Standards and Guidelines for Operators of Family Child Care Homes when the Department completes the pre-licensure visit; and

(l) Obtain infant/child CPR and first aid certificate that covers all hours of operation.

(5) The Department shall:

(a) Prior to issuing a license, obtain and review report(s) from health and fire officials who have inspected the home to determine compliance with appropriate regulations;

(b) Prior to issuing a license, visit the potential family child care home to determine compliance with applicable regulations, giving the applicant at least two (2) business days' notice prior to the visit;

(c) Review the findings of the complete application, including the visit report, health and safety inspection and the reference reports;

(d) Issue a provisional license if all regulatory requirements were met and mail the provisional license directly to the operator.

(6) Provisional License

(a) A provisional license may be granted only when the Department is satisfied that the regulations and suggested standards can and will be met within a reasonable time and the deviations from the regulations do not seriously threaten the safety of children.

(b) If a provisional license is issued, the Department shall notify the operator in writing of deficiencies to be corrected. The deficiencies shall be cited on the back of the provisional license and shall include the appropriate regulation number(s).

(c) A provisional license shall not be effective for any longer than one (1) year.

(7) Denial of Application to License a Family Child Care Home

(a) The Department shall deny the application for licensure if:

(i) The health and safety of any child in the family child care home is at risk;

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- (ii) The operator previously enrolled or currently has enrolled children beyond the limits permitted;
- (iii) The operator fails to comply with the licensure procedures provided;
- (iv) The operator, staff, volunteers, or household members have been convicted of crimes that would exclude them from working in a family child care home or appear on the sex offender or central registries; or
- (v) The operator fails to comply with the training requirements provided in Section 63-13-825(A), South Carolina Code of Laws, 1976, amended.

(b) If the Department denies an application for a license, the Department shall give the applicant written notice by certified or registered mail indicating the reason(s) for the denial and the right of the applicant to appeal the decision in accordance with the Department's fair hearing regulations.

(c) The applicant has thirty (30) days from receipt of the notification of denial of their application to appeal the decision. If no written appeal is made, the application shall be deemed denied as of the termination of the thirty-day period.

(d) If a family child care home is found to be in operation after the Department has denied the application to renew a registration and the administrative appeal procedure has been completed, the Department shall pursue an injunctive action.

### E. License Renewal

(1) For the purposes of applying for a renewal of a license, the operator shall comply with the Department's Suggested Standards for Family Child Care Homes.

(2) One hundred twenty (120) days prior to the expiration date of the current license, the Department shall advise the operator in writing of the date and requirements for renewal. The Department shall also visit the family child care home to determine compliance with applicable regulations, giving the applicant at least two (2) business days' notice prior to the visit.

(3) The operator shall complete the renewal packet supplied by the Department.

(4) Complete, sign and submit originals of the following forms: Application to Operate a Child Care Facility (DSS 2902), Original or Renewal of Registration of Family Child Care Home (DSS 2922), Household Member List (DSS 2927) and any additional forms required by the Department;

(5) Complete a current South Carolina State Law Enforcement Division (SLED), Federal Bureau of Investigation (FBI), and National Crime Information Center National Sex Offender Registry (NCIC) criminal history background checks for new household members eighteen (18) years of age or older, new substitute(s), new emergency person(s), and new staff who are regularly present during the hours of operation and new volunteers. The fingerprint reviews required by this subsection are required to be repeated every five years for the operator, staff, household members, substitutes, emergency persons, and volunteers;

(6) Submit an original DSS 2924, Central Registry for Release of Information and Compliance Statement, which includes a check of the national sex offender registry, on the operator and household members eighteen (18) years of age and older, substitute and regular caregiver(s), emergency person(s), staff who are regularly present during the hours of operation and volunteers along with the appropriate fee for South Carolina and for each state where such staff or household member resided during the preceding five years;

(7) Submit completed DSS 2909, Consumer Parent Statements signed by the parents/guardians of all children enrolled in care stating that they have been furnished a copy of the regulations; and

(8) Ensure all caregivers have the required training.

### F. Provisions for a License

(1) A regular license issued by the Department to a family child care home shall be valid for two years from date of issuance; unless revoked by the Department or voluntarily surrendered by the operator.

(2) Licensed family child care homes shall comply with all zoning ordinances and requirements.

(3) A provisional license may be issued for a period within which the deficiencies shall be corrected and within the conditions stated in the statute.

(4) A provisional license shall be amended to a regular license when all deficiencies have been verified as corrected.

(5) The current license shall be displayed in a prominent location at all times and the license number shall be stated in all advertisements of the family child care home.

(6) The license shall state the name of the operator, the address, and type of family child care home, the date on which the license was issued and will expire, and the maximum number of children to be present during operating hours.

(7) The number of children present in the home during operating hours shall not exceed the number specified on the license.

(8) A change in location shall immediately void the license. The license cannot be transferred nor sold from one individual to another.

(9) The Department shall revoke the license if:

(a) The health and safety of the children is determined to be at risk or threat of harm;

(b) The operator cares for more children than the number stated on the license;

(c) The operator fails to comply with the licensure procedures defined in statute and these regulations, or the Suggested Standards and Guidelines for Operators of Family Child Care Homes;

(d) The operator or household members have been convicted of crimes that would exclude them from working in a family child care home or appear on the sex offender or central registries;

(e) The operator knowingly employs staff or volunteers who have been convicted of crimes that would exclude them from working in a family child care home or appear on the sex offender or central registries; or

(f) The operator fails to allow access to entire home, premises, and business on the premises during any of the Department's visits or investigations.

(10) An operator whose license has been revoked by the Department shall be given written notice by certified or registered mail. The notice shall contain the reason(s) for the proposed action and shall inform the operator of the right to appeal the decision in writing within thirty (30) calendar days after receipt of the notice.

(11) If no written appeal is made within thirty (30) days, the Department shall revoke the license effective upon expiration of the 30-day appeal period.

(12) An application for a license may be denied or the license revoked by the Department if the operator or any household member(s), abuses or neglects any child as defined in Section 63-7-20, South Carolina Code of Laws, 1976, amended, or if the operator knowingly hires staff, including substitute caregiver(s), emergency person(s), or volunteers who abuse or neglect any child as defined in Section 63-7-20, South Carolina Code of Laws, 1976, as amended.

#### G. Inspections

(1) Annual Inspection:

(a) Once per calendar year, the Department shall visit and inspect a licensed or registered family child care home at any time during the hours of operation without prior notice to verify regulatory compliance.

(b) When the Department visits a family child care home for purposes of an inspection or investigation pursuant to Section 63-13-80, South Carolina Code of Laws, it shall conduct the inspection to ensure the family child care home complies with the following: health and safety of children; no evidence of child abuse; and enrollment within the limits set forth on the license.

(2) Complaint Inspection

(a) Upon receipt of a regulatory complaint, the Department shall conduct an unannounced inspection of the family child care home to investigate the complaint. If the complaint is written, the Department shall provide a copy to the operator.

(b) If the complaint received by the Department concerning a family child care home pursuant to Section 63-13-80 indicates a child has been abused, the Department shall carry out its responsibilities as authorized under Chapter 7 of the Children's Code. If the inspection verifies conditions detrimental to the health and safety of children or over enrollment, the Department shall carry out its responsibilities as authorized pursuant to Section 63-13-160 and Section 63-13-830.

#### 114-532. Management, Administration, and Staffing.

##### A. Staff Qualifications

(1) The operator of a family child care home shall be at least eighteen (18) years of age and shall reside in the home.

(2) An operator shall have the following qualifications:

(a) Be at least eighteen (18) years of age;

(b) Shall have a high school diploma or a General Educational Development (GED);

(c) Favorable completion of all comprehensive background check requirements; and

(d) Shall have the required training.

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(3) Caregivers less than eighteen (18) years of age may be permitted provided:

- (a) They shall be at least fifteen (15) years of age;
- (b) They shall be supervised by the operator at all time;
- (c) They shall not be the person in authority; and
- (d) The family child care home is in accordance with South Carolina Labor Laws regarding the employment of minors in non-hazardous jobs.

(4) At least one caregiver shall be on the premises at all times.

(5) During the hours of operation all family child care homes, except registered family child care homes, shall have on the premises at least one caregiver with a current certificate for the provision of basic first aid and infant/child cardiopulmonary resuscitation.

### B. Child Abuse

(1) The operator of a family child care home shall immediately report suspected child abuse or neglect to the Department's Child Protective Services (CPS) or to local law enforcement in accordance with Section 63-7-310, South Carolina Code of Laws.

(2) The operator and staff shall cooperate with the Department during an investigation of child abuse and neglect. Cooperation shall include the following:

- (a) Participate in information conferences with CPS workers;
- (b) Release records of children and staff upon request as appropriate; and
- (c) Allow access to the family child care home for inspection and investigation of the child abuse allegation by the Department and other officials as permitted by statute.

### C. Reporting Incidents

(1) The operator shall report the following incidents to the parents/guardians immediately and report to the Department within twenty-four (24) hours after the occurrence:

- (a) Death of a child or staff person that occur at the family child care home;
- (b) Child who is missing or who is left unattended in a vehicle operated by the family child care home;
- (c) Major structural damage to the family child care home;
- (d) Accidents or injuries involving any child occurring at the family child care home requiring medical treatment;
- (e) Child or staff occurrences of communicable diseases that the Department of Health and Environmental Control (DHEC) require in its School Exclusion List;
- (f) An occurrence that requires the services of a fire or police department which affects the health and safety of children;
- (g) Natural or man-made disasters, including extreme weather conditions which cause the family child care home to be closed for more than one day of operation;
- (h) Reports of alleged child abuse involving the operator, any staff person, or any household member; and
- (i) Arrests or convictions of any crimes against the operator, any staff persons, or any household member.

### D. Parent Access and Communication

(1) The operator shall permit the parent of a child in the family child care home free and full access to their child without prior notice while the child is receiving care; unless there is a court order limiting parental access. This free access shall not disrupt instructional activities and classroom routines.

(2) The operator shall develop a policy for the safe release of children. This policy shall be communicated to parents/guardians upon admission.

(3) Parents shall be provided with the following information upon admission:

- (a) The right of the parents to free and full access to their child.
- (b) The policy and procedures on release of children
- (c) The program activity schedule for their child's age group and child care area.
- (d) The parent's responsibility to obtain necessary immunizations and physical examinations for his/her child.
- (e) The policy and procedures for the administration of medications.
- (f) The policy and practices regarding the discipline and behavior management of children. This statement shall be resigned if any discipline policy changes are made.

(4) Parents and staff shall sign and date an agreement, maintained on file and updated annually, that both parties have read and understand all policies relating to the operation of family child care home.

(5) The operator shall obtain signed statements from a parent/guardian of each child enrolled indicating that the parent/guardian has received notice that the family child care home may provisionally employ a person in order to comply with Section 63-7-1980 and Section 63-13-40(D) when an unexpected staff vacancy occurs. Provisional employment shall only occur pursuant to the provisions of Section 63-13-40(D).

(6) Liability Insurance:

(a) An operator who does not carry liability insurance for the operation of the family child care home shall obtain signed statements from the parent(s) or guardian(s) of each child enrolled in the home indicating that the parent(s) or guardian(s) have received notice that the family child care home does not carry liability insurance for the operation of its child care business.

(b) The operator shall maintain a file of these signed statements at the home during the period of time that the child is enrolled.

(c) If insurance lapses or is cancelled and not reinstated or replaced, the operator shall obtain and maintain statements in accordance with Subsection (a) from the parent or guardian of each child enrolled in the family child care home no later than thirty (30) days after the liability insurance lapses or is cancelled.

(7) Once a child is enrolled in the family child care home, a DSS Form 2909, Consumer Parent Statement, shall be completed by a parent/guardian and the operator shall send the completed form to the Department.

E. Medication

(1) For purposes of this section, “medication” means any drug that may be obtained with or without a prescription, excluding a topical ointment obtained without a prescription.

(2) The operator, caregiver, staff, or volunteer of a family child care home shall not administer medication to a child under the care of the family child care home unless:

(a) The parent/guardian of the child has submitted to the family child care home, prior to the administration of the medication, a signed and dated parental consent form that authorizes the home to administer the medication to the child, and the authorization shall not be longer than one year at a time.

(b) The medication shall be administered as stated on the label directions, or as amended, in writing by the child’s health care provider.

(c) The medication shall not be expired.

(3) Notwithstanding subsection (2), an operator, caregiver, staff, or volunteer of a family child care home may administer medication to a child without a signed authorization if the parent/guardian:

(a) Submits to the family child care home an authorization in an electronic format that is capable of being viewed and saved; or

(b) Authorizes the family child care home by telephone to administer a single dose of a medication.

(4) This Section does not apply to a person who administers a medication, as prescribed, directed, or intended to a child when that person has a good faith belief that the child is suffering from a medical emergency and administering the medication would prevent the death or serious injury of the child.

(5) A family child care home shall maintain in each child’s record all written documentation and records of verbal communication that confirm parental or guardian permission to administer medication to the child, as required pursuant to this section.

(6) A medication log for each medication that is administered by a caregiver or staff person shall be kept, including the child’s name, the name of the medication, dosage, date, time, and name of person administering the medication. This information shall be logged immediately following the administration of the medication and a copy provided to the parent/guardian.

F. Child’s Records

(1) The operator shall have a file for each enrolled child. This file shall be made available to the Department, upon request.

(2) General records on the child - The file shall contain the following:

(a) Child’s full name, address, date of birth, date of enrollment, date of discharge, if applicable;

(b) Full name of both parents/guardians, the family’s home address, parents’ work address and telephone numbers where they can be contacted during the time that the child is in the family child care home;

(c) Instruction for contacting parents or relatives;



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(d) Names, addresses and telephone numbers of persons who can assume responsibility for the child in an emergency if the parent/guardian is unavailable; and

(e) Name, address and telephone number of a physician and/or health care resource preferred by the parent/guardian.

(3) Child's health records – The file shall contain the following:

(a) Parent's statement of the child's physical and mental condition at the time of his/her admission to the family child care home.

(b) Copy of immunization card of the child indicating required immunizations are completed, in process, or that the child is exempt.

(c) Written authorization from parent/guardian to administer medication, if applicable;

(d) Authorization from parent/guardian to transport child either to/from school, on field trips, and for emergency treatment;

(e) Authorization from parent/guardian for child to participate in swimming activities, if applicable;

(f) Completed Consumer Parent Statement, DSS Form 2909, signed by the parent attesting to the days and times child is enrolled in the family child care home; and

(g) Other health information if deemed necessary by the operator and/or by the parent/guardian.

### G. Staff Records

(1) Records shall be maintained on the operator, all caregivers, other members of the household, and additional staff as follows:

(a) Names, positions, and hours of duty;

(b) Results regarding current South Carolina State Law enforcement Division (SLED), Federal Bureau of Investigation (FBI) and National Crime Information Center National Sex Offender Registry criminal history background checks for the operator, household members fifteen (15) years of age or older, substitute and regular caregiver(s), emergency person(s), staff who are regularly present during operating hours, and volunteer(s) for South Carolina and for each state where such person resided during the preceding five years;

(c) Results regarding a central registry and a sex offender registry check for the operator, household members fifteen (15) years of age or older, substitute and regular caregiver(s), emergency person(s), staff who are regularly present during operating hours, and volunteer(s) for South Carolina and for each state where such person resided during the preceding five years;

(d) Record of training for operator and caregivers working directly with the children;

(e) Record of high school diploma/GED for operator, if licensed or registered on or after the passing of these regulations;

(f) Written statements, using the forms provided by the Department, shall be completed verifying that their current health status is satisfactory;

(g) Written evidence from a physician or health resource attesting that each person is free from communicable tuberculosis at the time of licensure or registration and subsequently according pursuant to state statute or the South Carolina Department of Health and Environmental Control regulations or policy; and

(h) A health assessment from a health care provider assessing the ability of the operator/caregiver to work with children. The health assessment shall be completed within three months prior to licensure, registration or employment or within the first month of licensure, registration or employment and shall include health history, physical exam, vision and hearing screening, tuberculosis screening, and a review of immunization status, and a discussion regarding recommended vaccinations, including a one-time adult dose of TDAP. A new health assessment shall be obtained by the operator/caregiver at least every four years after the initial assessment.

### H. Training

(1) All caregivers shall participate in at least ten (10) clock hours of training annually. At least four (4) clock hours shall be in child growth and development. If serving infants 12 months and under, one hour of safe sleep is required. The remaining hours shall come from the following areas: program administration, safety, health, nutrition, physical activity, guidance, infant/child CPR and first aid, and Blood Borne Pathogen training or other areas approved by the Department.

(2) Caregivers who receive training in excess of ten (10) hours per year may carry five (5) of those hours to the following year in the category earned.

114-533. Program.

#### A. Supervision

Supervision of children shall be adequate at all times and requires:

- (1) Awareness and responsibility for the ongoing activity of each child, knowledge of activity requirements and children's needs and accountability of care.
- (2) The operator and/or caregiver is in the same general area as the children and immediately available to them at all times.
- (3) The operator and/or caregiver is directly overseeing the children and their activities at all times.
- (4) The operator and/or caregiver is monitoring all of the children's activities by sight.
- (5) The operator and/or caregiver is outside with all children in care during outdoor play.

#### B. Naptime Supervision

- (1) The operator and/or caregiver is awake and alert while the children nap.
- (2) The operator and/or caregiver is on the same level of the home where the children are napping.
- (3) The operator and/or caregiver keeps all doors open if children nap in different rooms or areas.
- (4) The operator and/or caregiver visually checks on each child every fifteen (15) minutes.
- (5) The operator and/or caregiver shall be accessible to the children during naptime in case they have an emergency, i.e. asthma attack, breathing stops, or any other traumatic experience or in case of an emergency situation that requires evacuation, such as a fire.

#### C. Number of children in the home

(1) The operator may have up to six (6) children in the home at any given time, including children living in the home and children related to the operator who are under the age of twelve (12), unless zoning restrictions further limit the number of children.

(2) There shall be an additional caregiver, household member eighteen (18) years of age or older, staff, emergency person, or volunteer on the premises when four or more children in attendance are younger than twelve (12) months of age.

#### D. Attendance

(1) Accurate records of daily attendance of each child shall be kept on file at the family child care home at all times.

#### E. Daily Schedule

(1) The operator shall establish a daily schedule which will provide regularity of activities with sufficient flexibility and variety to respond to the needs of the children.

(2) The operator shall provide daily indoor and outdoor activities that contribute to the individual child's growth and well-being, including active and quiet activities.

(3) The family child care home shall provide an environment that safeguards infants and toddlers from physical harm, but is not so restrictive as to inhibit physical, intellectual, social, or emotional development.

#### F. Overnight Care

(1) A family child care home offering overnight care shall provide for the special needs of children during the night, shall adapt to the day/night routines of children, and shall ensure sufficient, unbroken periods of sleep for the children.

#### G. Discipline

(1) The family child care home's discipline policy shall outline methods of guidance appropriate to the ages of the children. Positive, non-violent, non-abusive methods for managing behavior shall be implemented. Children shall not be inappropriately handled with force.

(2) All operators/caregivers/household members shall sign an agreement to implement the discipline and behavior management policy, with a statement that specifies no corporal punishment. Corporal punishment is prohibited and includes, but is not limited to: spanking, hitting, slapping, twisting, dragging, yanking, squeezing, pinching, shaking, or biting a child.

(3) Emotional abuse is also prohibited, including but not limited to: profane, harsh, demeaning or humiliating language in the presence of the children. Threatening, humiliating, ignoring, corrupting, terrorizing or rejecting a child is prohibited.

(4) Withholding, forcing, or threatening to withhold or force food, sleep, or toileting is prohibited.

(5) Unsupervised isolation of a child shall not be allowed. The child shall be within sight of a caregiver if isolation from the group is used.

(6) The use of children to discipline other children is prohibited.

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(7) Children shall not be restrained through drugs or mechanical restraints.

(8) Children shall not be forced to complete demanding physical exercise or engage in demanding or strenuous activity as a form of punishment.

(9) Parents shall be informed of any discipline their child may be experiencing while at the family child care home.

### 114-534. Health, Sanitation, and Safety.

#### A. Child Health and Safety

(1) Children shall be excluded from care when they exhibit conditions listed in the DHEC Exclusion Policy.

(2) During the hours of operation:

(a) There shall be no use of non-prescription narcotic or illegal substances;

(b) There shall be no consumption of alcoholic beverages on the premises;

(c) There shall be no smoking or vaping inside or where children are present;

(d) There shall not be any people who appear to be under the influence of alcohol or other drugs on the premises.

#### B. Staff Health

(1) Staff shall be excluded when they exhibit the conditions listed on the DHEC Exclusion Policy.

(2) The operator and/or staff shall wash their hands with soap and running water before preparing foods, before and after administering medication, after toileting, after assisting a child with toileting or diapering, after cleaning, and if returning to the family child care home from outside. Hands shall be washed even if gloves were worn to perform these tasks.

(3) No person who is known to be afflicted with any disease in a communicable form, or who is a known carrier of such disease, or who is afflicted with boils, infected wounds, or sores or acute respiratory infection shall work in any capacity in a family child care home in which there is a likelihood of such person transmitting disease or infection to other individuals.

#### C. Sanitation

(1) Clean and sanitary conditions shall be maintained indoors and outdoors, including indoor and outdoor recreational equipment.

(2) The operator and/or caregiver shall ensure children's faces and hands are clean.

(3) The family child care home and premises shall be situated, equipped, and maintained as needed in order to safeguard the health of the users.

(4) The family child care home shall follow approved sanitary methods of disposal of wastes.

#### D. Water Supply

(1) The water supply shall meet bacteriological, chemical, and physical requirements for water quality and testing in accordance with DHEC.

(2) If water is unavailable for four (4) hours, an operator shall contact the Department and may be required to close.

(3) Safe drinking water shall be available to children at all times and there shall be no use of common drinking cups. If disposable cups are used, they shall be stored to prevent contamination prior to use.

#### E. Temperature

(1) Temperature in the family child care home shall be maintained between 68 and 80 degrees Fahrenheit as appropriate to the season, while children are present. If temperature cannot be maintained for more than four (4) hours in this range, the family child care home shall notify the Department and may be required to close.

(2) Caution shall be used with regards to weather and the length of time children are outside when the wind chill factor is below 20 degrees Fahrenheit or the heat index is above 95 degrees Fahrenheit.

#### F. Emergency Preparedness

(1) Family child care homes shall have a written emergency preparedness plan to evacuate the home in case of fire, natural disaster or threatening situation that may pose a health or safety hazard that is posted for all staff and parents to see. This plan shall be regularly tested.

(2) The operator shall have a written emergency plan. This plan shall include naming the emergency person to be summoned quickly to assist in an emergency.

(3) Emergency telephone numbers and information shall be posted, including the name/contact information of the emergency person.

G. Emergency Medical Plan

(1) The family child care home shall have an emergency medical plan in writing providing for emergency medical care of children requiring treatment away from the child care setting.

(2) First aid:

(a) The operator shall have a chart readily available that describes first aid emergency medical treatment techniques.

(b) First aid supplies shall be available for the treatment of minor cuts and abrasions and stored out of the reach of children.

H. Diapering

(1) Family child care homes caring for infants shall provide a non-porous sanitizable surface. Only a solution of bleach and water shall be used to sanitize the diaper changing surface after each diapering.

(2) Diapers shall be checked for wetness and feces at least hourly and whenever the child exhibits discomfort. Soiled diapers shall be changed immediately.

(3) Soiled diapers shall be placed in a plastic-lined, covered, leak-proof container which shall be emptied and cleaned daily.

(4) Children's hands shall be washed with soap and water after each diapering. In the case of infants, hands may be cleaned with single-use pre-moistened towels.

I. Toilets and sinks

(1) A minimum of one flush toilet and one sink shall be available for children.

(2) Potty chairs and seat adaptors are to be used in the bathroom only. Contents shall be disposed of in a toilet, and chairs/adaptors shall be sanitized with bleach water after each use.

(3) Water, liquid or granular soap, and disposable towels shall be provided.

(4) If children brush their teeth at the family child care home, each child shall have a separate, labeled toothbrush, stored with bristles exposed to circulating air, and not in contact with another toothbrush.

114-535. Physical Site.

A. Indoor Space

(1) Home structure

(a) Floors, walls and ceilings shall be kept clean, in good repair and free from hazards.

(b) All rooms shall be adequately lighted and ventilated. Lights and ventilation systems shall comply with the local and/or state building codes.

(c) There shall be areas protected from general walkways within the family child care home where crawling children can be on the floor to explore.

(d) Interior stairs that are not enclosed shall have a barrier to prevent falls and shall have a nonskid surface.

(e) Electrical outlets shall be covered with a child proof cover, safety plug, or other safety barrier to prevent electrical shock when not in use.

(2) Furniture, toys, and recreational equipment shall meet the following requirements:

(a) Furnishings and toys shall be of safe construction, free from sharp edges and loose or rusty points.

(b) Playpens and Pack n' Plays are not permitted.

(c) Mobile walkers are not permitted.

(d) No toys accessible to infants and toddlers shall be small enough to swallow.

(e) Products recalled by the Consumer Product Safety Commission shall not be accessible to children.

(3) Animals are permitted as long as they do not pose an apparent threat to the health of the children, are cleaned, are housed properly, are fed, and have the required vaccinations.

(a) Children and caregivers shall wash their hands thoroughly after contact with animals.

(b) Animal litter and waste shall not be accessible to children.

(c) Reptiles, amphibians, and rodents shall not be accessible to children.

B. Non-Infant Sleeping and Resting

(1) Individual, comfortable and sanitary equipment for sleeping and resting shall be provided.

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(2) Beds, cots and mats shall be made of easily cleanable material.

(3) Placement of beds, cots, or mats shall allow caregivers to have ready access to each individual child.

### C. Outdoor Space

(1) Outside space shall be free from hazards and litter.

(2) Outside space shall be restricted by fence or barrier if near unsafe areas such as traffic, parking areas, ditches, body of water, or steep slope.

(3) Access to swimming pools and wading pools shall be controlled by a device or method that promotes safety of children, including a latch, lock, protective fence, protective cover, or other device or method which enhances child safety.

(4) Outside stairs, walkways, ramps, and porches used by the children shall be maintained free from accumulations of water, ice, or snow.

(5) Decals shall be applied to all glass or sliding patio doors and placed at eye level of the children being cared for in the family child care home.

(6) Outside play equipment shall be clean, in good repair, and free from hazards.

(7) A properly fitting bicycle helmet shall be worn by each child when riding a bicycle, skateboard, roller skate blades or skates.

### D. Environmental Hazards

(1) Safety barriers shall be placed around all heating and cooling sources, such as hot water pipes, fireplaces, fixed space heaters, wood and coal-burning stoves, hot water heaters, and radiators that are accessible to children to prevent accidents or injuries upon contact by the child.

(2) Knives, lighters, matches, projectile toys, tobacco products, microwave ovens and other items that could be hazardous to children shall not be accessible to children.

(3) Poisons and harmful agents shall be kept locked, labeled, stored in original containers, and not accessible to children.

(4) All cleaning supplies, detergents, and other potentially poisonous items shall be stored away from food items and shall not be accessible to children.

(5) Firearms, weapons, and ammunition shall be kept in a locked drawer or cabinet and shall not be kept in a room where children are cared for in the family child care home.

## 114-536. Food.

### A. Meal Requirements

(1) Nutritious meals and/or snacks shall be provided every four (4) hours.

(2) A full serving of milk, or a nutritionally equivalent substitution, shall be offered a minimum of one time per day.

(3) If the family child care home provides overnight care, a dinner and evening snack shall also be served.

(4) When the family child care home provides food, it shall be in good condition, free from spoilage and contamination, and safe for human consumption.

(5) Safe water for drinking shall be accessible to children through the day.

### B. Storage

(1) All perishable food shall be stored in refrigeration at 40 degrees Fahrenheit or lower to protect against spoilage.

### C. Food Service

(1) Handling of food:

(a) Caregivers shall wash their hands prior to handling food.

(b) No person with boils, infected wounds, sores, or acute respiratory infection shall work in any capacity in which there is a likelihood of such person contaminating food or surfaces in contact with food or transmitting disease to other individuals.

(2) Preparation of food:

(a) Round, firm foods shall not be offered to children younger than four years old. Examples of such foods include: hot dogs, meatballs, grapes, hard candy, nuts, peanuts, and popcorn. Hot dogs may be served if cut lengthwise and quartered; grapes may be served if cut in halves.

(b) Individual portions of food once served shall not be served again.

D. Cleaning and storage of utensils and equipment

(1) Cleaning procedures: After each use, all tableware, kitchenware, and food contact surfaces used in preparation, serving or storage of food shall be thoroughly cleaned and sanitized.

114-537. Infant Care.

A. Safe Sleep

- (1) Infants shall be placed on their backs to sleep in a crib on a flat non-inclined surface.
- (2) Infants shall sleep in a crib that meets the requirements of the U.S. Consumer Product Safety Commission (CPSC). Operator shall obtain and keep on file crib compliance certificates.
- (3) Individual, comfortable, and sanitary cribs for sleeping and resting shall be provided.
- (4) Cribs shall be made of easily cleanable material.
- (5) Placement of cribs shall allow caregivers to have ready access to each child.
- (6) Operator shall not allow infants to sleep in car seats, bean bag chairs, infant swings, play pens, high chairs, or any other equipment other than an approved crib.
- (7) Caregiver shall visually check on infants every fifteen (15) minutes while sleeping, and the child shall be removed from the crib upon waking.
- (8) There shall be no other materials in the crib while the infant is in the crib, including pillows, bumpers, stuffed toys, wedges, etc.
- (9) Crib mobiles shall not be permitted for infants or toddlers who can sit.

B. Safe feeding

- (1) Infants shall be held while being bottle fed until they are able to hold their own bottles. Bottles shall not be propped or given in cribs or on mats.
- (2) Infants and toddlers shall not sleep with bottles in their mouths.
- (3) Preparing bottles:
  - (a) Microwaving of breastmilk, formulas, or other beverages is prohibited. If used, crock pots, bottle warmers, or other electronic devices shall be in an area that is not accessible to children.
  - (b) All warmed bottles shall be shaken well and the temperature tested before feeding to the child.
- (4) Breast milk, formula, juice or baby food shall be dated and labeled with the child's name and refrigerated until ready to use.

C. Feeding chairs

- (1) Feeding chair and trays shall be in good repair and made of an easily cleanable surface and cleaned/sanitized after each individual use.
- (2) Children shall be constantly supervised while in the feeding chair.
- (3) Children shall not remain in feeding chairs for long periods of time or for reasons other than feeding.

**Fiscal Impact Statement:**

The Department of Social Services does not anticipate any additional costs to be incurred by the State in complying with the proposed regulation.

**Statement of Rationale:**

The Department is repealing Regulation 114-528 and proposing Regulations 114-530 to 114-537 to establish and maintain standards for family child care homes that are reasonably aligned with recommended standards of national organizations and which further the Department's mission to establish and maintain standards that protect the health, safety, and well-being of children receiving care in family child care homes.

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Document No. 5231  
**DEPARTMENT OF SOCIAL SERVICES**  
CHAPTER 114  
Statutory Authority: 1976 Code Section 63-11-30

114-591. Organization and Administration.

114-594. Additional Requirements for Specified Group Home Populations.

### **Synopsis:**

The South Carolina Department of Social Services is amending Regulations 114-591 regarding criminal and child protective services background checks and 114-594 regarding additional requirements for specified group home populations.

The Notice of Drafting was published in the *State Register* on June 23, 2023.

### **Instructions:**

Print the regulations as set forth below. All other items remain unchanged.

### **Text:**

114-591. Organization and Administration.

#### A. Purpose and Need.

(1) At the time of application for licensing of a new facility, a facility shall submit:

(a) A detailed description of the why there is a need for this particular facility and any facts that support the applicant's assertion for that need.

(b) Letters of support documenting a need for their services from at least three community partners, including referral sources (e.g. Department of Social Services, Department of Juvenile Justice, Department of Disabilities and Special Needs, etc.).

(c) A concise written statement addressing the following:

(i) Definitive statement of purpose and objectives with respect to type of residential child care to be provided;

(ii) Description of services offered;

(iii) Ages and genders of children accepted;

(iv) Types of children accepted (e.g., abused/neglected, emotionally disturbed, dependent/neglected, status offenders, etc.);

(v) The geographical areas from which children are accepted.

(2) The facility shall reevaluate its functions periodically and redefine them as community needs change. A copy of the revised statement shall be submitted to the Agency when changes occur.

#### B. Board of Directors.

(1) A for-profit group care facility may elect to have a board of directors. If applicable, a list of names of board members shall be submitted annually or whenever there is a change, outlining the chain of command and the appropriate contact person(s), including names, addresses, electronic mail addresses, related phone numbers and positions held on the board. In the absence of a board of directors, the group care facility shall submit names, addresses, electronic mail addresses, related phone number and positions held for executive management or any person or each person of an entity that oversees the group home director.

(2) A not-for-profit group care facility shall be chartered by the Secretary of State and shall have a board which functions in accordance with the organization's constitution and bylaws. A list of names of board members shall be submitted annually or whenever there is a change, outlining the chain of command and the appropriate contact person(s) including names, addresses, electronic mail addresses, related phone numbers and position held on the board. Facilities operated by a state agency are exempt from this requirement.

(3) The bylaws of a board of a not-for-profit group care facility shall provide for the following:

- (a) At least one annual meeting held at the group care facility;
- (b) A limitation on the number of consecutive terms a member may serve;
- (c) An orientation for new board members; and
- (d) A provision that prohibits board members from receiving financial compensation for their services.

(4) Responsibilities of a board of a not-for-profit group care facility shall include:

- (a) Selecting the director to whom administrative responsibility is to be delegated;
- (b) Assuring that adequate funds are available;
- (c) Formulating or approving policies and procedures;
- (d) Accounting for the expenditure of funds and providing financial oversight;
- (e) Evaluating on an annual basis the performance of the director;
- (f) Ensuring that the Agency is informed of changes in administration;
- (g) Ensuring adherence to legal standard and ethical norms; and
- (h) The board shall assist in developing the annual budget and ensure the inclusion of sound financial controls.

C. Finances.

(1) The group care facility shall utilize funds in a manner that is safe, child-centered, responsible, and free from fraud. Policies and practices shall be in accord with sound budgeting, disbursement, and audit control procedures.

(2) The group care facility shall maintain a system of business management and staffing to ensure complete and accurate accounts, books, and records are maintained.

(3) A new group care facility shall have a predictable source of funds to finance its first year of operation and reserve funds equal to the operating costs of the first six months. However, existing licensed group care



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facilities that are in good standing with the Agency and increasing the capacity by no more than twenty-five (25) percent are exempt from the requirements to submit evidence of reserve funds or available credit.

(4) The group care facility shall prepare a budget each year for its group care facility showing anticipated income (broken down by category, e.g.: private donations, government grants, community fundraisers, etc.) and expenditures. The budget shall include projected costs for administration, insurance, vehicles, equipment, programming, personnel expenses, shelter (mortgage, rent, maintenance, etc.), property taxes, food, utilities, clothing, and other household expenses. A copy shall be submitted to the Agency.

(5) All board administered accounts shall be reviewed at least annually by a certified public accountant who does not serve on the board nor is otherwise employed by the group care facility. The report shall be made a part of the group care facility's record and a copy of the balance sheet submitted to the Agency at the time of relicensing.

(6) In the event financial stability is questionable, the Agency may require a financial audit to be conducted by a certified public accountant. The group care facility is responsible for the cost of a financial audit.

### D. Policies and Procedures.

(1) The facility shall develop and implement (and update as appropriate) a policy and procedural manual that includes all of the following:

(a) Services to Children- activity planning, admission of a child, allowances, behavior intervention, community involvement for children, complaints and grievances, confidentiality of child records, critical incident reporting, disaster plan, discharge of a child, electronic use, including cell phones, tablets, etc., emergency care in the event of a placement disruption, emergency safety intervention (if applicable), exploitation, family involvement and visitation, first aid and cardiopulmonary resuscitation (CPR) training, hospitalization, facility rules, procedures related to a child's absence from the group home without permission, independent living services (if applicable), LGBTQ+ youth, management of children's money, medical care of children (including dental care), medication administration, storage and disposal, out of state placements (if applicable), prohibition of smoking, prohibition of the use of child labor as a substitute for employment, reasonable and prudent parenting, religion, routine and emergency medical care, social media, suicide prevention, supervision of children on-site and off-site, the use of universal precautions, time-out, gang affiliation, drug paraphernalia, and weapons.

(b) Administration- designation of the chain of command or supervisory structure in the group care facility, finance, job descriptions and social media.

(c) Personnel- a workable plan for contacting the facility or a staff member when necessary, confidentiality of child records, disciplinary actions, documenting staff arrival and departure times, grievances, orientation for new staff, boundaries for staff, procedures for revisions of personnel policies, prohibition of smoking on the facility premises and in vehicles used to transport children, role of staff as mandated reporters, routine or universal health precautions and infection control, social media, training and staff development, volunteers and work schedule requirements.

(2) The staff of the facility shall be familiar with policy and procedural manuals and a copy of the manuals shall be made available to staff and the licensing agency.

### E. Communications and Notifications.

(1) The facility shall be able to communicate with the child, the Agency, health care providers, and other service providers.

- (2) A telephone that is operational shall be available on the premises at all times.
- (3) The facility shall provide an electronic mail address to the Agency and be able to access the internet.
- (4) The facility is subject to South Carolina laws relating to child abuse and neglect. The facility shall immediately report incidents of suspected abuse or neglect to the South Carolina Department of Social Services.
- (5) The facility shall notify the Agency licensing unit in writing within 24 hours regarding occurrences involving children in care, including but not limited to:
  - (a) Any federal, state or private legal action by or against the facility which affects any child, the conduct of the facility or any person affiliated with the facility;
  - (b) Closure of a living unit due to disaster or emergency situations such as fires or severe weather;
  - (c) A decision to evacuate the facility (if possible) and the names and location of all children who have evacuated in the case of an emergency.
- (6) The facility shall notify the Agency licensing unit in writing at least 30 calendar days before:
  - (a) Discontinuing operation of a facility;
  - (b) Any change in executive leadership responsible for the facility;
  - (c) Any planned construction or major structural changes to the facility;
  - (d) Any impending change that would necessitate a change in the conditions of the license, i.e., capacity, age range, gender, location or name.

F. Staff and Volunteer Responsibilities.

- (1) A staff member, or volunteer who knows or has reasonable cause to suspect that a child has been abused or neglect as defined in S.C. Code Section 63-7-20 shall immediately inform by phone, in writing, or in person, the Agency or a local law enforcement agency.
- (2) Staff members and volunteers shall keep information and records on children confidential pursuant to the requirements in S.C. Code Section 63-7-940 and S.C. Code Section 1990.
- (3) Each staff member or volunteer shall notify the group care facility as soon as possible, but no later than the staff member's next working day of all of the following:
  - (a) A conviction of any crime.
  - (b) A current or past investigation by any governmental agency for any act, offense, or omission, including an investigation related to the abuse or neglect, or threat of abuse or neglect, to a child or other client, or an investigation related to misappropriation of a client's property.
  - (c) A governmental finding substantiated against them of abuse or neglect of a client or of misappropriation of a client's property.
  - (d) A denial, restriction, or other limitation of a license or credential from the Agency of safety and professional services.

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(4) The staff member or volunteer shall demonstrate competency in the group care facility's program statement, policies and procedures, roles and responsibilities, and resident rights.

### G. Directors.

(1) Executive Directors shall have qualifications consistent with the responsibilities of the position as determined by the governing board. Documentation of qualifications, i.e., application or resume, shall be on file at the facility and will be reviewed at the time of licensing and relicensing.

(2) Program Directors are employed full-time and are responsible for the daily operations of a facility and shall have the following qualifications and responsibilities:

(a) Be at least 21 years old;

(b) Have a bachelor's degree in one of the major fields of study including, social work, sociology, psychology, special education, counseling and guidance, criminal justice and any other area in the human services field as approved by the Agency;

(c) Have two (2) years of professional supervisory experience in child welfare;

(d) Oversee program operation and development, and

(e) Review the appropriateness of admission of each child to the facility, participate in developing, reviewing, and updating child assessments and care plans, provide technical assistance to the group care staff and agencies and periodically review and update facility policies and procedures.

(f) Qualifications for employment as outlined in this section shall be documented in an application which shall also include the requirements of Regulation 114-591(I).

(3) Program Directors employed prior to July 1, 2021 will have a transition period of six years to meet the educational requirements. Alternatively, work experience may be considered in lieu of a bachelor's degree at the Agency's discretion for program directors employed prior to July 1, 2021.

### H. Caregivers.

(1) Caregivers have regular, direct contact with children and, at a minimum, shall be responsible for the care, nurture, monitoring and supervision of children; supporting and promoting parental involvement when appropriate; reporting suspected child abuse and neglect to the Out of Home Abuse and Neglect Unit of the South Carolina Department of Social Services and/or to a law enforcement agency in the county where the child resides or is found; and guidance on independent living services, as appropriate.

(2) A caregiver shall be at least twenty-one years old.

(3) Caregivers shall have a minimum of a high school diploma, certificate or equivalent.

### I. Hiring and Employment.

(1) Before a group care staff applicant begins employment, the group care facility shall do all of the following:

(a) Ensure that the applicant meets the qualifications for their position.

(b) Conduct and document background checks pursuant to regulation 114-591(L), on each applicant.

(c) Conduct and document a general orientation to the facility.

(d) Determine that the caregiver applicant is at least twenty-one years old and at least one year of child caring experience, either paid or unpaid.

(e) Obtain and file documentation to confirm that the caregiver applicant has a high school diploma, certificate or equivalent.

(f) Conduct and document additional training, including CPR, bloodborne pathogen, first aid, and restraint training as needed.

J. Personnel Records.

(1) The facility shall establish and maintain on the premises a personnel record for each group care staff member and volunteer staff.

(2) Each personnel record shall contain all of the following for the staff member for which the record was created:

(a) A completed application for employment that shall include the staff member's name, address, date of birth, training, education, work experience, and date of hire and proof that educational requirements have been met, if applicable;

(b) Current address and all addresses within the five years prior to hire;

(c) A completed and current background information disclosure form;

(d) The results of all background checks required in 114-591 (L);

(e) A job description that is signed and dated by the staff member or volunteer;

(f) A completed physical examination for caregivers or volunteer staff;

(g) The staff member or volunteer staff's driver's record, if the staff member or volunteer is assigned to transport children;

(h) A training record that shall include documentation of the staff member or volunteer's receipt of the orientation, training, and continuing education and the training record shall be documented as specified in 114-591 (M) (4);

(i) Documentation of all first aid and CPR certifications, if applicable;

(j) Documentation of restraint training certification, if applicable;

(k) For RPPS decision makers, documentation of the training required;

(l) Any disciplinary actions issued to the group care staff person or volunteer.

K. Staff Medical Exams.

(1) Each caregiver and volunteer staff person shall be physically, mentally and emotionally able to provide responsible care for children and shall not pose an imminent threat of harm to children or to the quality and manner of their care.

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(2) All caregivers and volunteer staff shall provide a medical statement on the medical history form approved by the Agency at the time of their hiring. This form should be kept in the caregiver's employee file for the duration of their employment.

(3) Caregivers and volunteer staff persons included in staff-to-child ratios shall have a medical examination conducted by a physician, physician assistant, or nurse practitioner no more than three months prior to employment or no later than thirty days after employment to certify that the caregiver meets the minimum physical requirements of the position and that the caregiver is in general good health that will not adversely affect the care of children in placement. The facility shall utilize the official Agency medical examination report form, which can be obtained from the Agency website.

(4) If the Agency has reason to believe that the physical or mental health of a caregiver or volunteer staff person or an applicant for employment may endanger a resident, the Agency may require that a written statement be submitted by a physician or, if appropriate, by a licensed mental health professional, that certifies the condition of the individual and the possible effect of that condition on the facility or the children in care.

(5) No more than three months prior to employment or no later than 30 days after employment, provide certification from a physician, physician assistant, or nurse practitioner that the caregiver meets the minimum physical requirements of the position and that the caregiver is in general good health. Physical examinations report forms can be obtained from the Agency website.

### L. Background Checks.

(1) No child may be placed in a group care facility with a person working in the facility, including a caregiver, staff, and volunteer staff who:

(a) Has a substantiated history of child abuse or neglect; or

(b) Has pled guilty or nolo contendere to or has been convicted of:

(i) An 'Offense against the Person' as provided for in Chapter 3, Title 16;

(ii) An 'Offense against Morality or Decency' as provided for in Chapter 15, Title 16;

(iii) Contributing to the delinquency of a minor as provided for in Section 16-17-490;

(iv) The common law offense of assault and battery of a high and aggravated nature when the victim was a person seventeen years of age or younger;

(v) Criminal domestic violence as defined in Section 16-25-20;

(vi) Criminal domestic violence of a high and aggravated nature as defined in Section 16-25-65;

(vii) A felony drug-related offense under the laws of this State;

(viii) Unlawful conduct toward a child as provided for in Section 63-5-70;

(ix) Cruelty to children as provided for in Section 63-5-80;

(x) Child endangerment as provided for in Section 56-5-2947; or

(xi) Criminal sexual conduct with a minor in the first degree as provided for in Section 16-3-655(A).

(c) A person who has been convicted of a criminal offense similar in nature to a crime enumerated in L(1)(b), when the crime was committed in another jurisdiction or under federal law, is subject to the restrictions set out in this section.

(d) This section does not exclude any person in L(1) when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in L(1)(b) has been pardoned. However, notwithstanding the entry of a pardon, the Agency or other entity making placement or licensing decisions may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the person is unfit or otherwise unsuited to work or volunteer in a group care facility.

(2) Prior to working in a facility, all persons referenced in L(1) shall undergo a background check, including a fingerprint review to be conducted by the Federal Bureau of Investigation, a check of the State Central Registry of Child Abuse and Neglect and department records, the equivalent registry system check for each state in which the person currently resides and has resided in the previous five years, the National Sex Offender Registry, and the state sex offender registry.

(3) The background checks of all persons referenced in (L)(1) shall be submitted to the Agency upon request.

(4) If a person referenced in (L)(1) separates from the facility for any period of time, then all background checks shall be repeated prior to resuming work in the facility.

(5) A fingerprint review conducted by the Federal Bureau of Investigation shall be required for all persons referenced in (L)(1). The fingerprint review shall be required prior to working in the facility and every five years thereafter to ensure the person continues to meet the requirements of this section.

(6) A background check conducted by the State Law Enforcement Division, a check of the State Central Registry of Child Abuse and Neglect and department records, the equivalent registry system check for each state in which the person currently resides and has resided within the previous five years, the National Sex Offender Registry, and the state sex offender registry shall be completed annually for all persons referenced in (L)(1) to ensure the person continues to meet the requirements of this section.

(7) The chief executive officer or the person authorized to hire staff shall agree to comply with the conditions of the Memorandum of Understanding on Criminal Record Checks.

(8) When a group care staff person or volunteer staff person is under investigation by the Agency, then the Agency may restrict that staff person's access to children until the investigation is complete if the seriousness of the allegations warrant such action.

(9) Although background checks prescribed in this subsection are not required for children age 18-21 who reside in the facility, if the facility also engages in the full-time residential care of minor children and is not a facility that exists primarily for the detention or correction of children, the facility shall have policies and procedures to assess the criminal background and child protective services history of children age 18-21 to ensure the safety of minor children residing in the facility.

(10) Notwithstanding the requirements to conduct criminal background and child abuse and neglect registry checks as outlined in this section, a facility may onboard persons referenced in (L)(1) for administrative purposes, i.e., training, completion of forms, signing documents, pending receipt of criminal background and out-of-state child abuse and neglect registry information. In such cases, prior to being onboarded, the person must provide a sworn, written statement that he or she has not pled guilty or nolo contendere, nor been convicted of any crime set forth in this section and that the person does not have a substantiated history of child abuse or neglect and is not on any State's child abuse and neglect registry. The facility shall not allow a person who is awaiting the results of background checks to have any unsupervised contact with children until the background

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checks are complete and it has been determined the person has no records that would exclude him or her from working or serving in the facility. Facility staff fulfilling a supervisory role must meet all staff requirements found in these regulations and must provide line-of-sight supervision to any person who is awaiting results of background checks. The facility must make diligent efforts to complete background checks within thirty days of onboarding a person for administrative purposes. However, upon a showing of good cause, the State Director or State Director's designee may provide written authorization for an extension not to exceed sixty days. In no event may the period of onboarding for administrative purposes as described in this section exceed ninety days.

### M. Staff Orientation and Continuing Education.

(1) The director shall submit an annual training plan to the licensing agency prior to implementation to ascertain that the plan will comply with this requirement. Training topics shall include trauma concepts and behavioral management, to provide for the needs of the children who are or may be placed in the group care facility, early learning, child and adolescent brain development, healthy eating, protective factors, and child abuse and neglect prevention. The annual training plan shall include proposed training topics, the planned month and number of training hours expected for each topic.

(2) Documentation of completed training shall be on file at the facility and shall be reviewed at the time of licensing, monitoring, or relicensing visits.

(3) The training record shall include documentation of the staff member's receipt of the orientation, training, and continuing education. Documentation shall include a summary training log for each caregiver for each license year followed by supporting documentation (e.g. certificates, training sign-in sheets if legible, etc.). The staff training log shall include all of the following:

- (a) Date and time of orientation and each training session;
- (b) Name of each person that conducted each orientation and training;
- (c) Training topic;
- (d) Total hours of training or continuing education received;
- (e) Whether the staff member completed the requirements of the training or continuing education session.

(4) Each volunteer staff person included in staff-to-child ratios shall meet the training requirements specified for caregivers.

(5) Within the first week of hire and prior to working alone with children, the group care facility shall provide the group care staff member with all of the following:

(a) A job description and the job description shall be signed and dated by each staff member upon receipt by the staff member;

(b) The facility's program statement and policies and procedures, including the personnel policies and procedures;

(c) Requirements of child abuse and neglect reporting and information on how to identify and report abuse or neglect situations;

(d) Instruction on how to use fire extinguishers, and on emergency and evacuation procedures;

(e) Any other information that would orient the staff member to the facility.

(6) Each license year caregivers shall complete a minimum of fifteen (15) hours of training related to the population served by the group care facility (not including first aid and cardiopulmonary resuscitation). A maximum of four training hours can be carried over from the previous license year as long as the training hours did not count towards the previous license year’s fifteen hour requirement. The Agency encourages the facility to offer training regularly throughout the license year.

(7) Types of training that may be acceptable to the Agency to meet continuing education requirements include all of the following:

- (a) Formal courses resulting in credits or continuing education units;
- (b) Training provided by the facility, a staff member, or a volunteer;
- (c) Workshops, conferences, seminars, or lectures;
- (d) Online training.

(8) Training topics include, but are not limited to: skill training in specific methods employed by the program, crisis management protocol, significance and value of birth and extended family, the importance of maintaining meaningful connections between the child and parents, including regular visitation, identifying and reporting child abuse and neglect, role of staff as mandated reporters, basic communication, interviewing skills, information related to the transmission and prevention of infection or universal precautions, group dynamics, fire life safety, water safety (for staff who will provide supervision for children around bodies of water), history and development of the service being provided (from the facility) and its current status, grief and loss issues for children in care, specific organizational policies and procedures, supervision and teaching skills, working with children who may have emotional, behavioral, physical problems or developmental delays, treatment care specific to the needs of the population served, individualized education and development plans, developmental needs of children, behavior management, de-escalation techniques, suicide prevention, cultural competency and culturally responsive services, LGBTQ+ issues, gang activity, drug and alcohol education, sex education, medication administration, trauma-informed care, prudent parenting, psychotropic medications, medical consent, child-specific training and/or may address issues relevant to the general population of children and other education and/or training required by the state.

(9) The fifteen hour training requirement will be pro-rated for new caregivers based on the number of months worked during the license year.

Months Worked During License Year	Hours Required
1	1
2	2
3	3
4	5
5	6
6	7
7	8
8	9
9	10
10	12
11	13
12	15

(10) At all times at least one caregiver in each living space shall be certified in first aid and cardiopulmonary resuscitation appropriate to the age of the population served. The training shall be from the American Red Cross



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or a program or trainer certified by the American Red Cross, American Heart Association, or the Health and Safety Institute. The certification shall be renewed in accordance with training guidelines.

(11) If it is a facility's policy to implement physical restraints, then all caregivers shall complete restraint training. New staff cannot participate in a restraint prior to completing the facility's restraint training.

### N. Volunteers.

(1) If volunteers are used as part of a group care facility's program of services, the group care facility shall have written policies to screen, select and supervise volunteers.

(2) Those volunteers who have opportunity for unsupervised contact with children shall be known as "volunteer staff" and shall supply a written application and have an interview with the staff who is responsible for the supervision of volunteers before volunteering.

(a) Volunteer staff may be used to meet the staff-to-child ratio requirements if the volunteer meets the requirements specified for caregivers under regulation 114-591 (H), (I), (L), (M) and (K).

(3) Volunteers shall be invited to participate in annual training required of other caregivers.

(4) Individuals or groups who offer to provide a one time or occasional voluntary service (parties, trainings, entertainment, etc.) and do not have unsupervised access to children, are not required to undergo a full background screening by the group care facility. At least one facility caregiver shall supervise the interaction between such individuals or groups and the children.

### O. Record Storage and Retention.

(1) The facility shall retain in a locked or secured area all children's records for a minimum period of three years from the date the child is discharged from the program, and all staff records for a minimum period of three years from the date the staff separates employment.

(a) If any litigation, claim, or other action involving the records have been initiated prior to the expiration of the three year period, the records shall be retained until completion of the action and resolution of all issues that arise from it or until the end of the three year period, whichever is later.

(b) A facility that no longer operates shall secure the records until the requirements above are met.

(2) In accordance with the South Carolina Electronic Transactions Act (S.C. Code Ann. 26-6-10 et seq.), electronic records will be accepted assuming that the information is in a reasonably accessible format.

The Provider shall ensure that the electronic record is accessible to reviewers and auditors and the integrity of the record is preserved.

### P. Supervision and Staff-to-Child Ratios.

(1) Caregivers shall be responsible for the daily supervision of children and direct care to children to ensure their safety and well-being. A facility shall staff each group care facility with caregivers in numbers sufficient to meet the staff to child ratios specified in regulation 114-591 (P)(3) and for any off-premise activities.

(a) A facility shall ensure that supervision is provided for each child appropriate to the child's age, maturity, behavior, and developmental level and sufficient to ensure the safety of all children in the facility.

(b) No child may be in the facility without supervision by a caregiver.

(c) A facility shall ensure that sufficient staffing is available to provide supervision of a child during suspensions and other extended absences from school.

(2) A minimum of two caregivers shall be available, accessible, and able to respond on-site within a reasonable amount of time during waking and sleeping hours.

(3) The staff-to-child ratios of the facility shall be 1:5 for children from birth to one year old. A facility shall have at least one caregiver awake and providing supervision for every 5 children in this age group during waking hours and during sleeping hours.

(4) The staff-to child ratios of the facility shall be 1:6 for children one to two years old. A facility shall have at least one caregiver awake and providing supervision for every 6 children in this age group during waking and sleeping hours.

(5) The staff-to-child ratios of the facility shall be 1:8 during waking hours and 1:10 during sleeping hours for children three years old and older.

(6) Any child of live-in staff shall be included in the staff-to child ratios.

(7) The staff-to-child ratios in regulation 114-591(P) are the minimum staffing requirements for caregivers. The number of caregiver staff on duty shall be increased as necessary to meet the needs of children and to ensure their safety and welfare.

(8) The Agency may require a higher staff-to-child ratio if an on-site review indicates that a child is at risk of abuse, and more supervision is needed to maintain appropriate control, discipline, adequate care and safety.

(9) The facility shall have a responsive system to provide for on-call caregivers (available, accessible and able to respond on-site) in the event of an emergency or disruption. A schedule of on-call caregivers shall be made immediately available to the Agency upon request.

Q. Time Off for Caregivers.

Each full-time caregiver shall have at least two consecutive days off each month in addition to one day off each week or the equivalent. The facility shall comply with state labor laws.

R. Effective Date.

This Regulation shall become effective on September 12, 2021.

114-594. Additional Requirements for Specified Group Home Populations.

A. Care for LGBTQ+ Youth.

APPLICABILITY. If a facility admits LGBTQ+ children, the additional requirements outlined in this section must be met.

(1) The facility shall not automatically isolate or segregate LGBTQ+ youth. The facility shall not assign transgender youth to the boys or girls unit strictly according to their anatomical sex. The facility shall accept the gender identity of the youth in question.

(2) The facility shall work with individual LGBTQ+ youth to identify the most appropriate housing assignment in a facility, given the youth's specific preferences, needs, and characteristics.

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(3) The facility shall make assignments to a unit, room, or roommate according to the youth's preferences, personality, background, age, developmental status, health status, sophistication, social skills, behavioral history, and other factors that might influence his or her adjustment and contribute to a safe and successful experience.

(4) The facility shall never place an LGBTQ+ youth in a room with another youth who is overtly hostile toward or demeaning of LGBTQ+ individuals.

(5) To avoid subjecting a transgender youth to unnecessary risk of harm, the facility shall work with the youth to determine the best solution for using bathroom and shower facilities. Appropriate solutions might include:

(a) Installing privacy doors or other barriers on bathroom stalls and showers that also permit reasonable staff supervision;

(b) Making single-use bathroom and shower facilities available to transgender youth;

(c) Permitting transgender youth to use the bathroom and shower facilities before or after the other youth on the unit.

(6) Facilities shall make similar accommodations to ensure that transgender youth have sufficient privacy when dressing and undressing.

### B. Requirements for Child Care Institutions Providing Care for Prenatal, Post-Partum, or Parenting Youth.

APPLICABILITY. A child care institution that is solely licensed to provide care for custodial parents and expectant mothers must meet these additional requirements.

(1) A Child Care Institution that is licensed to provide care to custodial parents or expectant mothers, shall meet the additional requirements of this section.

(2) The care plan developed shall include goals and approaches for all of the following:

(a) Parenting skills instruction that includes all of the following:

(i) Prenatal and other health care services;

(ii) Child development;

(iii) Bathing and hygiene;

(iv) Child safety;

(v) Child guidance and behavior management;

(vi) Domestic violence issues, sudden infant death syndrome, shaken baby syndrome, and mental health and alcohol and other drug abuse counseling as appropriate;

(vii) Nutrition and meal preparation;

(viii) Childcare options.

(b) Life skills instruction that includes all of the following:

- (i) Family planning and relationships;
- (ii) Independent living skills, economic self-sufficiency, budgeting and job skills;
- (iii) Parental rights and responsibilities, including child support;
- (iv) Choosing and monitoring child care providers;
- (v) Accessing community resources, transportation, and transitional housing.

(3) An expectant mother shall be provided prenatal and postnatal care from a physician or a nurse-midwife. The facility shall ensure that the expectant mother gives birth in a medical facility.

(4) The facility shall ensure the health, safety, and welfare of the children of custodial parents and provide care to those children in compliance with these regulations.

(5) If the child is not on the premises or is otherwise unable to care for his or her child, childcare may be provided on the premises only as follows:

(a) The staff member or volunteer staff used to meet staff to child ratios shall have completed the training requirements for a caregiver;

(b) Childcare may be provided off premises only by a child care provider that is licensed or registered by the Agency.

(6) The facility shall give children of custodial parents the opportunity and encouragement to maintain involvement with non-custodial parents.

C. Requirements for Child Care Institutions Caring for Children Six Years of Age or Younger.

APPLICABILITY. Any child care institution that admits children under six years of age or if the child care institution provides care to a child who is the custodial parent of a child under the age of six shall meet the additional requirements of this section.

(1) Infant and Toddler Care.

(a) Stimulation and nurturing

(i) Children shall not remain in their cribs or play equipment for other than sleeping and specific, short time-limited quiet play.

(ii) Infants and toddlers shall be routinely held, talked to, rocked, caressed, carried, nurtured, read to, sung to and played with throughout the day.

(iii) There shall be toys and materials that encourage and stimulate children through seeing, feeling, hearing, smelling and tasting.

(iv) Feeding chairs shall be used only for eating or a specific, short time-limited tabletop play activity.

(b) Programs for infants and toddlers

(i) Staff shall provide appropriate attention to the needs of children.

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(ii) The daily program for infants and toddlers shall include goals for children, which promote healthy child development and allow for individual choice and exploration.

(iii) Information about the child's daily needs and activities shall be shared with parents.

### (2) Infant and Toddler Sleep.

(a) Children over one year of age shall not share a bedroom with an adult unless:

(i) The infant has a physician documented illness; or

(ii) The infant's parent is a child of the facility, the parent is requesting this arrangement, there is adequate space for both, and Agency approval is obtained.

(b) Cribs shall meet the requirements of the US Consumer Products Safety Commission (CPSC) and have a firm crib mattress and tight-fitting crib sheet.

(c) Each infant, toddler, two year old and preschool child shall be assigned an individual, clean, and developmentally appropriate crib, toddler bed, or bed used only by that child.

(d) Infants shall be placed on their backs to sleep.

(e) Infants shall always be placed in cribs alone, with no blankets, bumpers, pillows or toys.

(f) Infants shall never sleep on sofas, chairs, recliners, waterbeds, pillows, cushions or blankets.

### (3) Infant and Toddler Feeding.

(a) Bottles shall not be propped. A child unable to hold a bottle shall be held whenever a bottle is given.

(b) Infants and toddlers shall not be put to bed with a bottle.

(c) Microwaving of breastmilk, formulas, or other beverages is prohibited. If used, crock pots, bottle warmers, or other electronic devices shall be in an area not accessible to children.

(d) All warmed bottles shall be shaken well and the temperature tested before feeding to a child.

(e) Any excess formula, juice, or food shall be discarded after each feeding. Formula, juice and food requiring refrigeration shall be maintained at 45 degrees Fahrenheit or below.

(f) Toddlers shall be offered water routinely throughout the day.

(g) If more than one infant is served, then breast milk and formula shall be dated and labeled with the child's name and refrigerated until ready to use.

(h) Round, firm foods shall not be offered to children younger than four years old. Examples of such foods include: hot dogs, grapes, hard candy, nuts, peanuts, and popcorn. Hot dogs may be served if cut lengthwise and quartered; grapes may be served if cut in halves.

### (4) Infant and Toddler Sanitation.

(a) Staff shall ensure that children's faces and hands are clean.

(b) Furniture, toys, and equipment that are used by more than one unrelated child and come into contact with children's mouths shall be washed, rinsed, and sanitized daily and more often if necessary.

(c) Furniture, toys and equipment soiled by secretion or excretion shall be sanitized before reuse.

(d) Linens and blankets as well as cribs, cots, and mats shall be cleaned at least weekly.

(e) Each child shall have a separate toothbrush.

(5) Diapering and Toilet Training.

(a) Facilities caring for infants shall provide a diaper changing area.

(b) Diaper changing procedures shall be consistent with those recommended by the Center for Disease Control and Prevention.

(c) Diapering surfaces shall be sanitized.

(d) Diapering surfaces shall be clean, seamless, waterproof and sanitary.

(e) Diapering surfaces shall be cleaned and sanitized after each use by washing to remove visible soil followed by wiping with an approved sanitizing solution (e.g. 1 tablespoon of chlorine bleach per 1 quart of water) and/or disposable, non-absorbent paper sheets approved for this purpose and shall be discarded immediately after each diapering.

(f) Blood contaminated materials and diapers shall be discarded in a plastic bag with a secure tie. Surfaces contaminated with blood or blood-containing body fluids shall be cleaned with a solution of chlorine bleach and water.

(g) Diapering shall occur only at a diapering changing area or in a bathroom.

(h) Diaper changing areas shall not be used for any purpose other than for diapering.

(i) Individual wipes shall be used at each diaper change and shall be placed in a plastic-lined, covered container and washed or disposed of properly, and kept out the reach of children.

(j) Soiled disposable diapers and disposable wipes shall be kept in a closed, plastic lined receptacle within reach of diaper changing area separate from other trash. Soiled non-disposable items shall be kept in a sealed plastic bag after feces is disposed of through the sewage.

(k) Disposable non-absorbent paper sheets shall be disposed of immediately after diapering is completed.

(l) Soiled disposable diapers shall be disposed outside the building daily. Soiled non-disposable diapers shall be kept in a sealed plastic bag and washed regularly.

(m) Staff shall ensure that diapers and clothing are checked at a frequency that ensures prompt changing of diapers and clothing.

(n) No child shall be left unattended while being diapered.

(o) If seat adapters are used for toilet training, they shall be cleaned and sanitized after each use.

(p) Toilet training equipment shall be provided to children who are being toilet trained.

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(q) Toilets, toilet seat adapters, sinks and restrooms shall be cleaned at least daily and shall be in good repair.

(6) Furniture, toys and recreational equipment shall:

(a) Be clean and free from hazards such as broken or loose parts, rust or peeling paint, pinch or crush points, unstable bases, sharp edges, exposed bolts, and openings that could cause head or limb entrapment;

(b) Meet the standards of the US Consumer Products Safety Commission (CPSC), if applicable. Recalled products listed by the CPSC shall not be accessible to children;

(c) Be developmentally and size appropriate, accommodating the maximum number of children involved in an activity at any one time;

(d) All arts and crafts and play materials shall be nontoxic;

(e) The height of play equipment shall be developmentally and size appropriate;

(f) Sand in a sand box shall be securely covered when not in use and, if outdoors, constructed to provide for drainage;

(g) Indoor recreational equipment and furnishings shall be cleaned and disinfected when they are soiled or at least once weekly and shall be of safe construction and free of sharp edges and loose or rusty points;

(h) Mobile walkers are not permitted;

(i) The facility shall provide eating utensils and cups, infant seats, high chairs, car seats, strollers, rocking chairs, tables and seating and other furnishings and equipment appropriate for size and developmental level and the needs of children under 6 years of age.

(7) Infant and Toddler Indoor Space and Conditions.

(a) Indoor space shall be protected from general walkways where crawling children may be on the floor.

(b) Protective gates shall be of the type that do not block emergency entrances and exits and that prevent finger pinching and head or limb entrapment.

(c) Children shall not have access to a door that swings open to a descending stairwell or outside steps, unless there is a landing that is at least as wide as the doorway at the top of the stairs.

(d) Interior stairs that are not enclosed shall have a barrier to prevent falls.

(e) Electrical outlets shall be securely covered with childproof covers or safety plugs when not in use in all areas accessible to children.

(f) No electrical device accessible to children shall be located so that it could be plugged into the outlet while in contact with a water source, such as sinks, tubs, shower areas, or swimming/wading pools, unless ground fault devices are utilized.

(g) Infants and toddlers shall not be left unattended in a bathtub or shower.

(h) The following items shall be secured or inaccessible to children for whom they are not age appropriate:

(i) Items that may cause strangulation such as blind cords, plastic bags, necklaces, and drawstrings on clothing and string;

(ii) Items that may cause suffocation such as sand, beanbag chairs, pillows, soft bedding, and stuffed animals; and

(iii) Items that may cause choking such as materials smaller than 1 1/4 inch in diameter, items with removable parts smaller than 1 1/4 inch in diameter, Styrofoam objects and latex balloons.

D. Requirements for a Qualified Residential Treatment Program.

APPLICABILITY: A child care institution licensed as a Qualified Residential Treatment Program must meet these additional requirements.

(1) A Qualified Residential Treatment Program (QRTP) must be a child care institution that:

(a) Has a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and are able to implement the treatment identified for the child in the required 30 day assessment of the appropriateness of the QRTP placement.

(b) To the extent appropriate, and in accordance with the child’s best interest, facilitates participation of family members in the child’s treatment program.

(c) Facilitates outreach to the family members of the child, including siblings, documents information for any known biological family and fictive kin of the child.

(d) Documents how family members are integrated into the treatment process for the child, including post-discharge planning and family-based aftercare support for at least six months post-discharge.

(e) Is licensed by the state in accordance with title IV-E requirements and is accredited by any of the following independent, not-for-profit organizations: The Commission on Accreditation of Rehabilitation Facilities (CARF), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Council on Accreditation (COA), the Teaching Family Association (TFA), the Educational Assessment Guidelines Leading Toward Excellence (EAGLE), or any other independent, not-for-profit accrediting organization approved by the Agency.

(f) Has registered or licensed nursing staff and other licensed clinical staff who provide care within the scope of their practice as defined by state law, are on-site according to the treatment model, and are available 24 hours a day and 7 days a week.

(i) This requirement shall not be construed as requiring a QRTP to acquire nursing and behavioral staff solely through means of a direct employer to employee relationship.

(2) A QRTP shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

E. Requirements for Child Care Institutions Serving At-Risk and Confirmed Victims of Child Sex Trafficking.

APPLICABILITY: A child care institution licensed to provide high-quality residential care and supportive services to children who are identified as at-risk, or are confirmed sex trafficking victims must meet these additional requirements.



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(1) The facility shall accommodate victims of child sex trafficking safely in a separate section or wing from youth who are not victims of child sex trafficking.

(a) Youth at risk of being victims of trafficking must be placed in a separate section to avoid the possibility of recruitment.

(b) There shall be no more than twelve individuals in a separate wing or unit.

(c) There shall be no more than two females (or males) sharing the same room.

(d) Youth of similar ages must be housed together.

(2) The facility must offer blended educational opportunities for students. This could take place in a traditional school setting or through monitored online education. Instruction may take place with:

(a) A teacher who is available in person for assistance and offers a traditional classroom.

(b) Online educational materials, which should be monitored by the teacher and staff.

(c) In person learning at a traditional school facility. This should occur only if the child is not at risk of elopement or recruitment.

(3) The facility must have a policy that clearly states that a youth will not be discriminated against based on their religious preferences. Services must not be contingent upon their engagement in religious activities. Mandated religious activities are prohibited.

(a) Religious and spiritual issues must be addressed as part of the comprehensive case management process and agencies must follow the youth's lead in determining appropriate engagement or participation. If federally funded, religious programming must be conducted outside of the funded program.

(4) Staff must have the necessary background and experience to do the specific work for which they are hired. The program must be clear as to the staff roles that will engage with clients, and in what ways, versus the staff roles that are strictly public awareness and training.

(a) For all staff, training must include human trafficking facts and information; trauma-informed practice and victim centered approach; trauma-informed interviewing and screening, cultural awareness and diversity; boundaries, confidentiality, and privacy; safety planning; and other training deemed appropriate by SCDSS or other certification bodies.

(b) For staff working directly with youth, staff should receive Human Trafficking Victim Service Provider (VSP) certification.

(5) Each provider must develop a formal written safety plan that strategically addresses steps to prevent and reduce the risk of harm as well as response procedures. This safety plan will be written by the provider for their child sex trafficking population and details:

(a) A secured identified safe room with emergency communication equipment capable of calling 911 in the event of an intruder;

(b) A formal safety plan that addresses:

(i) Medical emergencies

(ii) Elopement

(iii) Evacuation plan for a natural disaster

(6) Twenty-four hour supervision shall be provided at all times. This means someone will be on duty and awake during the hours of 10 pm until 7 am, or the staff change over.

(7) The facility must always maintain staff secured doors either via video monitoring, door alarms or visual sight.

(8) The facility must maintain audible window and door alarms.

(9) The facility must maintain audible interior motion sensors for nighttime monitoring.

(10) The facility must have cameras in all open area rooms capable of recorded video and playback and review. Cameras shall be monitored for the safety of the youth. Written documentation must be maintained to include when the cameras are reviewed, who reviewed them, the time reviewed, and any notable observations.

(11) The facility must maintain exterior cameras and floodlights to enhance security on the property.

(12) The facility must have child protection policy outlining gender specific restrictions (e.g., no male staff or visitor/female client one-on-one interactions), no staff or visitor use of social media or geo-tagging devices, and no use of cell phones by visitors of the facility.

(13) The Facility must monitor all visitors and phone contacts between client and visitor.

(14) All cell phones and electronic devices will be confiscated upon youth entering the facility and stored in a secure place.

(15) Memorandum of Understanding (MOU) with local, county and state law enforcement including appropriate responses in the case of an emergency and steps to prevent and reduce harm.

(16) Length of stay is based on individual youth's progression that should be reviewed by the treatment team on a quarterly basis. The team should anticipate that a youth may need services for an estimated 12-24 months to enhance likelihood of comprehensive restorative care.

(a) A shorter stay can occur, but there should be flexibility to extend if needed.

(i) At risk youth should have some flexibility in their length of stay.

(ii) At risk youth should receive psycho education on at risk behaviors that lead to trafficking and discussions on completing a safety plan.

(b) This time frame will allow for rapport to be established, therapy to be effective and a treatment plan to be implemented.

(c) The program must maintain a highly structured schedule for its youth.

(17) A qualified program staff member should review any DSS assessments, and DSS Form 1544, (Child Sex Trafficking Tool), to carefully determine the appropriateness of a referral to ensure that potential Youth are victims of CSEC and a match for the program.

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(18) The facility must clearly outline how the program addresses the needs of the youth, including behavioral health, physical and dental health, education, vocational training, employment, legal services, life skills, and facilitated reconnections with family, as appropriate.

(19) Clinical mental health services and other counseling must be provided by a licensed professional counselor and there must be clear quality assurance mechanisms to ensure treatment models adhere to evidence-based model efficacy.

(a) The facility must have access to mental health services that offer counseling in Spanish or should be able to request a counselor that is bilingual.

(20) The facility shall use evidence-based, evidence informed, and best practices treatment models, specific to the population being served, that are clearly delineated in the policy and procedure manual. Examples include:

(a) Trauma-focused Cognitive Behavioral Therapy (TF-CBT)

(b) Risk Reduction through Family Therapy (RRFT), if family is not the perpetrator.

(c) Dialectal Behavior Therapy (DBT)

(21) The facility shall have clinical staff or a representative present at all Multi-Disciplinary Team (MDT) when a client's safety, well-being and permanency is being discussed.

(22) Discharge requirements should be documented in the policies and procedures manual.

(a) Discharge planning should be carefully coordinated and begin 90 days prior to anticipated discharge date.

(b) The process should include the safety of the transitional placement and supplemental supports that may be needed in the next placement setting.

(c) Facility staff or a representative must participate in an MDT staffing prior to a client being discharged. All parties of the MDT team must agree to the plan.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

As the administrator of the State's foster care system, the Department of Social Services is responsible for establishing and promulgating rules and regulations for the licensure of Residential Group Care Facilities for Children. The above referenced regulations need amendments to enhance consistency in licensing standards among child serving organizations licensed by the department and reduce burdensome requirements.

The proposed amendments promote the application of a consistent set of rules and regulations for the licensure of Residential Group Care Facilities for Children, thereby promoting the safety, permanency, stability, and well-being of children who are in the State's foster care system.

Document No. 5232  
DEPARTMENT OF SOCIAL SERVICES  
CHAPTER 114  
Statutory Authority: 1976 Code Section 63-11-30

114-600. Wilderness Therapeutic Camps for Children.

**Synopsis:**

The South Carolina Department of Social Services is amending Regulations 114-600C.(12) and F.(6), regarding criminal and child protective services background checks.

The Notice of Drafting was published in the *State Register* on June 23, 2023.

**Instructions:**

Print the regulation as set forth below. All other items remain unchanged.

**Text:**

114-600. Wilderness Therapeutic Camps for Children.

(Statutory Authority: 1976 Code Sections 43-1-80 and 63-11-30)

A. Definitions.

(1) Administrative Office - The office where business operations, public relations, and the management procedures take place.

(2) Agency - Refers to the South Carolina Department of Social Services.

(3) Chemical Restraints - Are drugs administered to temporarily restrain a child who poses a threat to harm themselves or others.

(4) Child - For the purposes of these regulations, a person between the ages of eight and twenty-one.

(5) Child Care Staff - A paid professional who works at a wilderness therapeutic camp who has responsibility for direct care of the children.

(6) Corporal Punishment - Physical punishment inflicted directly upon the body.

(7) Executive Director - The person responsible for coordinating the general management, administration, and care of the children of a wilderness therapeutic camp in accordance with licensing requirements and policies established by the advisory board.

(8) Expedition - An off-site wilderness experience, including wilderness therapeutic camp staff and children, lasting no longer than twenty-eight (28) days. The experience may include hiking, canoeing/kayaking and other outdoor adventure activities.

(9) Group Care - Refers to the care and services provided by the wilderness therapeutic camp.

(10) Isolation - Defined as the involuntary confinement of a person in a room where the person is physically prevented from leaving.

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(11) Permanent Building - A durable, fixed structure with a roof and walls that has indoor plumbing, electricity and heating and air conditioning.

(12) Program Director - The person who assists the executive director and is responsible for the day to day operations of a wilderness therapeutic camp.

(13) Restraint - Defined as any manual method, physical or mechanical device, material, or equipment attached or adjacent to the child's body, that the individual cannot remove easily which restricts freedom of movement or normal access to one's body.

(14) Standard License - Issued when a wilderness therapeutic camp meets all the requirements to obtain a license.

(15) Time Out - Defined as the temporary restriction of an individual for a period of time to a designated area from which the person is not physically prevented from leaving, for the purpose of providing the individual an opportunity to regain self control. Time out will last only for the shortest amount of time needed.

(16) Volunteers - Are persons, who of their own free will, provide goods or services to a wilderness therapeutic camp with no monetary or material compensation.

(17) Wilderness Therapeutic Camp - A therapeutic camp, organization, or facility with an outdoor or wilderness focus that is engaged in receiving children for care and maintenance, either part or full time, but shall not include any summer camp, day camp, or after school program, and shall also not include any other outdoor education or youth development program or facility where participants usually attend for less than 15 days, and does not include any licensed residential group care organization, child caring institution or group home or facility that meets the facility requirements of S.C. Code of Regulations Section 114-590.

(18) Wilderness Structures - A permanent or semi-permanent shelter constructed of wood and other materials used at a wilderness therapeutic camp for sleeping, cooking, eating, and/or other group activities. Wilderness structures might not be totally enclosed during all seasons and typically do not have electricity or mechanical heating and cooling systems.

### B. General.

(1) Purpose of Licensing. The South Carolina Department of Social Services is legally empowered to regulate facilities for children pursuant to S.C. Code Section 63-11-30. The overall purpose of licensing by the South Carolina Department of Social Services is to assure that wilderness therapeutic camps for children provide well rounded programs of care which include adequate protection, supervision and maintenance of children in care; safe wilderness structures and/or physical facilities; and opportunities for appropriate learning experiences which allow for the healthy physical and mental growth of the children in care and are directed toward maximizing the potential of each individual to be well adjusted, independent, and responsible.

(2) Compliance with Other Laws. All wilderness therapeutic camps must comply with all other applicable requirements of State and Federal laws.

### C. Organization and Administration.

#### (1) Purpose and Need.

(a) At the time of application for licensing of a new wilderness therapeutic camp, a wilderness therapeutic camp shall submit a concise written statement addressing the following:

(i) Definitive statement of purpose and objectives with respect to type of residential child care to be provided;

(ii) Description of services offered;

(iii) Ages and genders of children accepted;

(iv) Types of children accepted (e.g., abused, neglected, emotionally disturbed, dependent, neglected, status offenders, etc.) and types of children not appropriate for the wilderness setting;

(v) The geographical areas from which children are accepted.

(b) The wilderness therapeutic camp shall reevaluate its functions periodically and redefine them as changing community needs necessitate. A copy of the revised statement shall be submitted to the agency when changes occur.

(2) Board of Directors.

(a) A for profit organization may elect to have a board which functions in accordance with the organization's articles of incorporation or bylaws, complies with these licensing regulations and with applicable state and federal laws. A list of names of board members must be submitted annually or whenever there is a change outlining the chain of command and the appropriate contact person(s) including names, addresses, and related phone numbers.

(b) A not for profit organization shall be chartered by the Secretary of State and shall have a board which functions in accordance with the organization's constitution and bylaws. A list of names of board members must be submitted annually or whenever there is a change outlining the chain of command and the appropriate contact person(s) including names, addresses, and related phone numbers. Wilderness therapeutic camps operated by a state agency are exempt from this requirement.

(c) The bylaws of a board of a not for profit organization must provide for the following:

(i) at least one annual meeting held at the wilderness therapeutic camp;

(ii) a limitation of the number of consecutive terms a member may serve;

(iii) an orientation for new board members; and

(iv) a provision that prohibits board members from receiving financial compensation for their services.

(d) Responsibilities of a board of a not for profit organization shall include:

(i) selecting the director to whom administrative responsibility is to be delegated;

(ii) assuring that adequate funds are available;

(iii) formulating or approving policies;

(iv) accounting for the expenditure of funds;

(v) evaluating on an annual basis the performance of the director; and

(vi) ensuring that the Agency is informed of changes in administration.

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### (3) Finances.

(a) The wilderness therapeutic camp shall have a sound plan of financing which assures adequate funds to carry out its defined purpose and to provide proper care for children.

(b) A new wilderness therapeutic camp shall have a predictable source of funds to finance its first year of operation and reserve funds or documentation of available credit equal to the operating costs of the first three months. However, existing licensed wilderness therapeutic camps that are in good standing with the agency, and increasing the capacity by no more than twenty five (25) percent are exempt from the requirements to submit evidence of reserve funds or available credit.

(c) The wilderness therapeutic camp shall prepare a budget each year for its wilderness therapeutic camp showing anticipated income (including sources thereof) and expenditures. A copy shall be submitted to the agency.

(d) All board administered accounts shall be reviewed at least annually by a certified public accountant who does not serve on the board nor is otherwise employed by the wilderness therapeutic camp. The report shall be made a part of the wilderness therapeutic camp's record and a copy of the balance sheet submitted to the Agency at the time of relicensing.

(e) In the event financial stability is questionable, the Agency may require a financial audit to be conducted by a certified public accountant.

### (4) Procedural Manual.

(a) The wilderness therapeutic camp shall develop and implement (and update as appropriate) a procedural manual to include, but not be limited to policies in the areas of: finance, procedures for appeals, complaints and grievances, emergency care in the event of a placement disruption, routine and emergency medical care, hospitalization, dental care, control of and administering medications, restraints, management of children's money, off-site expeditions, religion, community involvement for children, confidentiality, disaster plans, independent living services (if applicable), personnel, admission (including types of children not appropriate for the wilderness setting), discharge, discipline and firearms.

(b) The staff of the wilderness therapeutic camp shall be familiar with the procedural manual and a copy shall be made available to staff and the Agency.

(c) The wilderness therapeutic camp shall develop and implement personnel policies to include, but not be limited to: written job descriptions, orientation for new employees, training and staff development, role of all staff as mandated reporters, written organizational plans/chart, routine or universal health precautions and infection control, use of tobacco, work schedule requirements, volunteers, disciplinary actions, grievances and procedures for revisions of personnel policies.

### (5) Directors.

(a) Executive Directors shall have qualifications consistent with the responsibilities of the position as determined by the governing board.

(b) Program Directors are responsible for the day to day operations of a wilderness therapeutic camp. The Executive Director or the Program Director shall have the following qualifications: a Master's or Doctorate degree in social work or other related areas of study, a minimum of one year of outdoor youth program experience as well as an additional one year experience in the management or supervision of child care personnel, a child care program and/or a closely related field; or a Bachelor's degree, a minimum of one year of outdoor youth program experience as well as an additional two years of experience in the management or supervision of

child care personnel, a child care program and/or a closely related field; or an Associate's degree and four years of experience in child care or a closely related field, including a minimum of one year of outdoor youth program experience as well as one year of experience in the management or supervision of child care personnel and program. Closely related fields acceptable in meeting these qualifications may include, but are not limited to social work, counseling, education, psychology, sociology, criminal justice, nursing, and recreational therapy.

(c) Each program shall designate support staff responsible for delivery of supplies to the field, mail delivery, communications and first aid support as necessary.

(d) Documentation of qualifications (e.g., a copy of diploma or transcript) shall be on file at the wilderness therapeutic camp and shall be reviewed at the time of licensing/relicensing.

(e) Wilderness therapeutic camp directors must report suspected child abuse and neglect as defined in S.C. Code Section 63-7-310 et seq to the Out of Home Abuse and Neglect Unit of the South Carolina Department of Social Services or to a law enforcement agency in the county where the child resides or is found.

**(6) Staff.**

(a) At a minimum, child care staff shall be responsible for the care, nurture, monitoring and supervision of children; supporting and promoting parental involvement when appropriate; reporting suspected child abuse and neglect to the Out of Home Abuse and Neglect Unit of the South Carolina Department of Social Services or to a law enforcement agency in the county where the child resides or is found; and guidance on independent living services, as appropriate.

(b) Child care staff shall have a minimum of a high school diploma, certificate or equivalent, and shall be at least twenty one (21) years of age.

(c) Documentation of qualifications (e.g., a copy of diploma or GED) shall be on file at the wilderness therapeutic camp and shall be reviewed at the time of licensing/relicensing.

**(7) Training.**

(a) Staff who work directly with the children must have a minimum of fourteen (14) hours annually of training related to child care.

(b) The director shall submit an outline of proposed training to the Agency for the upcoming licensing period to include training topics and a general timeline.

(c) Documentation of completed training shall be on file at the wilderness therapeutic camp and shall be reviewed at the time of licensing/relicensing.

(d) Prior to working with children, staff must have undergone a general orientation of the wilderness therapeutic camp.

(e) A wilderness therapeutic camp shall require at least one staff member present in each camp site to be certified in standard first aid and cardiopulmonary resuscitation.

(f) Standard first aid and cardiopulmonary resuscitation training shall be completed in person. Training shall not be completed online.

(g) At least one staff person who escorts children on expeditions off site shall be trained in wilderness first aid by someone certified in wilderness first aid.



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(h) Within the first year of employment, staff must have fourteen (14) hours of training (not including first aid and cardiopulmonary resuscitation). Training topics shall include but not be limited to: skill training in specific methods employed by the program, crisis management protocol, significance and value of birth and extended family, identifying and reporting child abuse and neglect, role of all staff as mandated reporters, basic communication, interviewing skills, HIV/AIDS, information relating to transmission and prevention of infection, group dynamics, fire life safety, water safety, history and development of the service being provided (from the wilderness therapeutic camp) and its current status, grief and loss issues for children in care, low impact wilderness expedition and environmental conservation skills and procedures, navigational skills, including map and compass use and contour and celestial navigation, local environmental precautions, including terrain, weather, insects, and poisonous plants, specific organizational policies and procedures, supervision and teaching skills, prudent parenting and other education and/or training required by the state.

(i) Training topics for annual continuing education (14 hours of training) may include but not be limited to: working with children who may have emotional, behavioral, or physical problems, developmental delays, treatment care specific to the needs of the population served, individualized education and development plans, developmental needs of children, discipline, de-escalation and behavior management techniques, and suicide prevention.

(j) Training shall be completed by qualified staff on-site or may include off-site training opportunities, conferences, etc.

(k) The initial staff training must be completed and documented before the staff person may be included in the staff to child ratio.

### (8) Volunteers.

(a) If volunteers are used as part of a wilderness therapeutic camp's program of services, the wilderness therapeutic camp shall have written policies to screen, select and supervise volunteers.

(b) Those volunteers who have opportunity for unsupervised contact with children shall supply a written application and have an interview with the staff who is responsible for the supervision of volunteers before volunteering. These volunteers must provide documentation that they are free from communicable or contagious diseases and shall submit to background check procedures as outlined in Section C(12).

(c) Volunteers shall be provided an orientation that includes a review of the wilderness therapeutic camp's program, policies and procedures, review of the duties of the volunteer, and a tour of the wilderness structures and/or physical facilities.

(d) Volunteers shall not substitute for staff and there must be a defined line of supervision with clear written expectations of the supervisor and volunteer.

(e) Volunteers shall be invited to participate in annual training required of other child care staff.

(f) Individuals or groups who offer to provide a one time or occasional voluntary service (parties, trainings, entertainment, etc.) and do not have unsupervised access to children, are not required to undergo a full background screening by the wilderness therapeutic camp. At least one wilderness therapeutic camp staff person must supervise the interaction between such individuals or groups and the children being supervised by the wilderness therapeutic camp.

### (9) Staff to Child Ratio.

(a) Wilderness therapeutic camps are expected to maintain staffing levels that provide children with quality services and adequate supervision. Different camps may have different staffing needs based on the

population of children served. The needs of the children shall be the predominant factor in determining the numbers of staff members needed.

(b) Wilderness therapeutic camps shall maintain a minimum staffing ratio of one (1) staff for every eight (8) children during the day and of one (1) staff for every ten (10) children during sleep hours.

(c) A minimum of two (2) staff shall be available at all times.

(d) The Agency may, at the Agency's discretion, temporarily require awake staff during sleep hours if additional supervision is deemed necessary.

(e) The Agency may, at the Agency's discretion, temporarily require a higher staff/child ratio if an on site review indicates that a child is at risk of abuse and more supervision is needed to maintain appropriate control, discipline, adequate care and safety.

(f) All wilderness therapeutic camps must have a responsive system to provide for back up staff in the event of an emergency or disruption.

(10) Staff Medical Reports.

(a) Staff shall have medical examinations at the time of employment (completed on the medical form provided by the Agency) to include written evidence from a physician or health resource attesting that the staff is in good health and free from communicable tuberculosis pursuant to state statute or the South Carolina Department of Health and Environmental Control regulations or policy.

(b) Any staff member who, upon examination or as a result of tests, has symptoms of a condition that could be detrimental to the children or staff, or which would prevent satisfactory performance of duties, shall not work or continue to work at the wilderness therapeutic camp until the healthcare provider indicates that the condition no longer presents a threat to children or staff.

(c) Any staff member who is hospitalized must have a satisfactory medical report prior to resuming responsibilities at the wilderness therapeutic camp.

(d) Annually, the wilderness therapeutic camp must obtain written evidence from a physician or health resource attesting that each staff member is free from communicable tuberculosis pursuant to state statute or the South Carolina Department of Health and Environmental Control regulations or policy.

(11) Time Off for Residential Staff. Each full time residential staff member shall have at least one weekend off each month (or equivalent) in addition to one day off each week, except when the staff member is on expeditionary trips.

(12) Background Checks.

(a) Persons working as child care staff and any staff or volunteers who have unsupervised contact with children in a wilderness therapeutic camp must submit to a fingerprint review to be conducted by the Federal Bureau of Investigation, a check of the State Central Registry of Child Abuse and Neglect, and Agency records, the equivalent child abuse and neglect registry system check for each state in which the person currently resides or has resided within the previous five years, the National Sex Offender Registry, and the State Sex Offender Registry. The wilderness therapeutic camp must initiate all background checks as outlined in this section prior to allowing a person referenced in this section to work or serve in any capacity.

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(b) No child may be placed in a wilderness therapeutic camp with or under the care and control of any person referenced in 12(a) if the person has a substantiated history of child abuse or neglect or has pled guilty, nolo contendere, or has been convicted of:

- (i) an “Offense Against the Person” as provided for in Chapter 3, Title 16; or
- (ii) an “Offense Against Morality or Decency” as provided for in Chapter 15, Title 16; or
- (iii) contributing to the delinquency of a minor as provided for in Section 16-17-490; or
- (iv) the common law offense of assault and battery of a high and aggravated nature when the victim was a person seventeen years of age or younger; or
- (v) criminal domestic violence, as defined in Section 16-25-20; or
- (vi) criminal domestic violence of a high and aggravated nature as defined in Section 16-25-65; or
- (vii) unlawful conduct toward a child as provided for in Section 63-5-70; or
- (viii) cruelty to children as provided for in Section 63-5-80; or
- (ix) child endangerment as provided for in Section 56-5-2947; or
- (x) a felony drug related offense under the laws of this state.

(c) Notwithstanding the requirements to conduct criminal background and child abuse and neglect registry checks as outlined in this section, a wilderness therapeutic camp may onboard persons referenced in 12(a) for administrative purposes only, i.e., training, completion of forms, signing documents, pending receipt of criminal background and out-of-state child abuse and neglect registry information. In such cases, prior to being onboarded, the person must provide a sworn, written statement that he or she has not pled guilty or nolo contendere, nor been convicted of any crime set forth in this section, that the person is not on any State’s child abuse and neglect registry and has no substantiated history of child abuse or neglect. The wilderness therapeutic camp shall not allow a person who is awaiting the results of background checks to have any unsupervised contact with children until the background checks are complete and it has been determined the person has no records that would exclude him or her from working or serving in the wilderness therapeutic camp. Wilderness therapeutic camp staff fulfilling a supervisory role must meet all staff requirements found in these regulations and must provide line-of-sight supervision to any person who is awaiting the results of background checks. The wilderness therapeutic camp must make diligent efforts to complete background checks within thirty days of onboarding a person for administrative purposes. However, upon a showing of good cause, the State Director or State Director’s designee may provide written authorization for an extension not to exceed sixty days. In no event may the period of onboarding for administrative purposes as described in this section exceed ninety days.

(d) No person shall be employed, volunteer, or live on the premises of a wilderness therapeutic camp who is listed on the State or National Sex Offender Registry.

(e) A person who has plead guilty, nolo contendere, or been convicted of a criminal offense similar in nature to a crime enumerated in this section, when the crime was committed in another jurisdiction or under federal law, is subject to the restrictions set out in this section.

(f) A background check conducted by the State Law Enforcement Division, a check of the State Central Registry of Child Abuse and Neglect and Agency records, the equivalent registry system check for each state in which the person currently resides or has resided within the five years preceding the records check, the National

Sex Offender Registry, and the State sex offender registry shall be completed annually for all persons referenced in (12)(a) to ensure the person continues to meet the requirements outlined in this section.

(g) A fingerprint review conducted by the Federal Bureau of Investigation shall be required for all persons referenced in (12)(a). The wilderness therapeutic camp shall initiate the fingerprint review of persons referenced in (12)(a) prior to allowing service in any capacity. Every 5 years after the initial fingerprint review, the wilderness therapeutic camp must initiate and complete a fingerprint review of persons referenced in 12(a) to ensure the person continues to meet the requirements of this section.

(h) Although background checks prescribed in this subsection are not required for children ages 18-21 who reside in the wilderness therapeutic camp, if the wilderness therapeutic camp also engages in the full-time residential care of minor children, and is not an organization that exists primarily for the detention or correction of children, the wilderness therapeutic camp shall have policies and procedures to assess the criminal background and child protective services history of children ages 18-21 to ensure the safety of minor children.

(i) The chief executive officer or the person authorized to hire staff shall agree to comply with the conditions of the Memorandum of Understanding on Criminal Record Checks.

(13) Reports.

(a) Detailed written summary reports shall be made to the Department of Social Services Group Home Licensing Unit staff via email or fax within 24 hours. This report shall be made regarding occurrences involving children in care, including but not limited to:

(i) Any federal, state or private legal action by or against the wilderness therapeutic camp which affects any child, the conduct of the camp or any person affiliated with the camp;

(ii) Closure of a living unit due to disaster or emergency situations such as fires or severe weather; and

(iii) A decision to evacuate the wilderness therapeutic camp (if possible) and the names and location of all children who have evacuated in the case of an emergency.

(b) The wilderness therapeutic camp shall report to the Agency:

(i) Any change in executive director; and

(ii) Any impending change that would necessitate a change in the conditions of the license, i.e., capacity, age range, gender, location or name.

D. Buildings, Grounds and Equipment.

(1) Zoning Compliance and Building Codes.

(a) The construction of a new wilderness therapeutic camp, the conversion of an existing building for residential child care purposes, or the remodeling of a wilderness therapeutic camp must comply with all applicable zoning regulations and local and state building and fire codes.

(b) Architectural plans for new construction or structural changes must be approved by the State Fire Marshal's Office.

(2) Health Inspection.

(a) Each wilderness therapeutic camp shall have an annual safety and sanitation inspection.

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(b) Based on the recommendations of the safety and sanitation inspections, the Agency will make a determination as to whether or not the wilderness therapeutic camp meets standards of health and sanitation for child caring purposes.

(c) A wilderness therapeutic camp is responsible for any fees or related expenses for the health inspection.

### (3) Fire Inspection.

(a) There shall be an annual inspection by the State Fire Marshal's Office or by a legally authorized local fire authority at the request of the State Fire Marshal.

(b) Based on the recommendations of the fire authorities, the Agency will make a determination as to whether or not the wilderness therapeutic camp meets standards of fire safety for child caring purposes.

(c) A wilderness therapeutic camp is responsible for any fees or related expenses for the fire inspection.

(d) A fire escape plan shall be posted in the wilderness therapeutic camp in areas accessible to staff and children.

### (4) Fire Safety.

(a) The wilderness therapeutic camp shall equip each wilderness site with a fire extinguisher as required by the state fire marshal.

(b) Fireplaces, hot water/steam radiators and pipes, or any other heating device capable of causing a burn shall be protected by a screen or otherwise effectively shielded.

(c) If heating stoves are utilized, the wilderness therapeutic camp shall install and ventilate heating stoves that use combustible fuel in a manner that prevents fire hazards and dangerous concentration of gases.

### (5) Condition.

(a) Routine maintenance must be performed as needed to ensure wilderness structures and buildings and equipment are safe and in good working order.

(b) Wilderness therapeutic camp sites and buildings will be kept clean, orderly, and free of debris and trash, both indoors and out.

(c) Fences must be in good repair.

(d) Swimming and wading pools must be enclosed with protective fencing to restrict children's access and must be well maintained as mandated by DHEC (South Carolina Department of Health and Environmental Control).

(e) Grounds within the housing site shall be free from debris, noxious plants (poison ivy, etc.) and uncontrolled weeds or brush.

(f) All camp sites shall be well drained and free from depressions in which water may stand. Mosquito breeding shall be prevented in such areas containing water not subject to such drainage or filling.

(g) Housing shall have flooring constructed of rigid materials, smooth finished, readily cleanable and so located as to prevent the entrance of ground and surface water.

## (6) Heating/Cooling.

(a) Permanent buildings located at the wilderness therapeutic camp should contain heating equipment that shall be capable of maintaining a room temperature of not less than 68 degrees Fahrenheit as well as cooling equipment that shall be capable of maintaining a room temperature of not more than seventy five (75) degrees Fahrenheit.

(b) Wilderness structures located at campsites shall be capable of providing adequate warmth during cold weather months and adequate ventilation during hot weather months, considering the wilderness nature of the program and the needs of children in the program.

(c) Permanent buildings and wilderness structures and rooms with toilets, bathrooms, and bedrooms without operable windows must have adequate ventilation.

(7) Food Preparation and Storage. Food shall be prepared and stored in compliance with regulations established by the Department of Health and Environmental Control where applicable. If food is prepared away from a central dining building, the wilderness therapeutic camp shall:

(a) Store food in a manner that deters spoilage and contamination and does not attract animals, insects, or vermin;

(b) Require that perishable food stored in ice chests is maintained at a refrigerated temperature;

(c) Require that all surfaces that come in contact with food are clean and, when preparing meat products and other foods, not sources of cross contamination;

(d) Clean thoroughly and store all dishes, cooking, and eating utensils in a manner to avoid contamination;

(e) Ensure that all water from natural sources be treated for sanitation to eliminate health hazards; and,

(f) Use hot water and detergent to wash all food utensils after each meal at campsites.

## (8) Sleeping Rooms and Bedding.

(a) Sleeping quarters for children shall be suitable and adequately furnished with beds that are placed at least two feet apart.

(b) The quarters shall have outside window exposure or auxiliary means of ventilation.

(c) Bedroom quarters shall provide a minimum of fifty square feet of space per child.

(d) Bunk beds shall not be used in a wilderness setting.

(e) Children of the opposite gender shall not share a bedroom or portable structure.

(f) Children shall not sleep in a bed with an adult under any circumstances.

(g) No child shall sleep in an area designated or commonly used for other than bedroom purposes unless it is allowed temporarily during an emergency as part of the camp's disaster plan.

(h) Each child shall have a separate bed with a level mattress, or sleeping bag when on expeditions, long enough to accommodate him/her. Sufficient bed coverings to include linens shall be provided.

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(i) Waterproof mattresses and pillow coverings shall be provided as needed.

(j) The wilderness program shall use bedding that is adequate for protection and comfort in cold weather.

(k) Bedding provided by the wilderness therapeutic camp shall be clean and sanitary. All bedding shall be laundered, at minimum, between assignments to different children.

(l) Linens shall be changed as often as required for cleanliness and sanitation, but not less frequently than once a week.

### (9) Bathroom Facilities.

#### (a) Bathroom Facilities in Permanent Buildings.

(i) There shall be indoor bathrooms with at least one lavatory for every six children, a tub or shower and one indoor flush toilet for every eight children. Multiple toilets in one area shall be in separate compartments.

(ii) The wilderness therapeutic camp shall maintain all toilet and personal hygiene areas in a sanitary manner to eliminate health or pollution hazards.

(iii) Hot and cold water must be available. Water temperature for hot water must be limited to 120 degrees Fahrenheit or below.

(iv) Separate bathroom facilities shall be provided for girls and boys.

(v) Ventilation shall be provided with either an open screened window or functioning exhaust fan.

(vi) Mirrors or non breakable reflective surfaces shall be provided in the bathrooms at levels easily accessible to children.

#### (b) Privies at Campsites.

(i) There shall be at least two sanitary type privies at each campsite.

(ii) The wilderness therapeutic camp shall locate privies no closer than 65 feet but within a reasonable distance from a sleeping area.

(iii) Privies shall be cleaned regularly and maintained so as to prevent access of flies and animals to the contents therein, to prevent fly breeding and to prevent contamination of water supply.

(10) Staff Facilities. Staff who reside on-site shall be provided with sleeping and bathroom facilities separate from the children, with the exception of campsite privies.

### (11) Personal Effects.

(a) Personal effects, towels, wash cloths, toothbrushes, combs and other toilet articles shall be supplied for each child's use and an appropriate and clean location for storage of such items shall be provided.

(b) Each child shall have a place separate from that of other children to keep his/her own personal effects (toys, books, pictures, etc.) as well as his/her clothing.

(c) Each child shall be permitted to bring safe and appropriate personal possessions with him/her and to acquire belongings of his/her own.

(d) A clothes washing machine and clothes dryer must be available.

(12) Activities.

(a) Provision shall be made for space and suitable equipment for both indoor and outdoor recreation activities.

(i) Equipment shall be age appropriate, in good working condition, and well maintained.

(ii) Stationary equipment such as swings and slides shall be securely anchored and located to avoid accidents.

(b) Children shall be provided with opportunities for interaction in the community through age and developmentally appropriate activities that are educational, recreational, cultural, and social in nature.

(c) Appropriate activities for children's participation may include school events, church activities, utilization of community recreation facilities, participation in community affairs, and attendance at cultural events.

(d) Documentation of recreational activities that are implemented and are appropriate to the developmental needs, and interests of children shall be on file in the wilderness therapeutic camp and available for review by the Agency licensing representative. In addition, documentation of at least three months of activities shall be submitted along with other relicensing documentation.

(e) Staff trained in water safety and an accountability system shall be present during water activities if personal flotation devices are not worn. Documentation of training in water safety shall be provided. A certified lifeguard shall be present during swimming in a swimming pool if personal flotation devices are not worn.

(f) Staff engaged in leading adventure activities such as rock climbing, canoeing, caving, etc. shall be adequately trained in the skills needed to participate in the activity, and at least one staff member shall have adequate experience in leading the activity.

(g) Off Site Activities. Wilderness therapeutic camps may make decisions regarding a child's participation in routine activities that involve a child spending the night (or several nights) away from the wilderness therapeutic camp for activities such as: camping trips, school related activity, church activity, or an overnight stay with a friend. Wilderness therapeutic camps must obtain consent from the legal guardian or parent(s) to allow such activities. If the child is in the Agency's custody, then the identified prudent parent can provide consent. The following must be taken into consideration when deciding the appropriateness of a child's participation in any off site event:

(i) Stipulations of a court order;

(ii) The child's background, presenting problems, developmental level, abilities and interests;

(iii) If the activity is suitable, positive, and if it will contribute to the child's development; and

(iv) The maturity and responsibility of the adults supervising the activity.

(13) Power or Vocational Tools.

(a) Staff must provide appropriate, direct supervision of children while children are using equipment or tools.



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(b) All equipment must be well maintained and in good working order.

(c) Power tools shall have intact safety devices.

(d) Power tools must be stored in a locked area not accessible to children when not in use.

(e) Axes and knives must be stored in a locked area unless in use by camp staff or otherwise under camp staff supervision.

### (14) Expeditions.

(a) There shall be a written plan for expedition groups approved by the program director or executive director, which shall not expose children to unreasonable risks.

(b) The expedition plan, including maps, routes, anticipated schedules and times, and sources of emergency care and methods of communication with such facilities as hospitals, police, and forest service shall be carried by the staff leading the expedition and a copy shall be available at the administrative office.

(c) Each expedition group shall have a telephone or comparable means of communication while on an expedition. If either of these is impossible, individual arrangements shall be made by the camp and approved by the Agency.

(d) Expedition group size shall maintain a minimum staffing ratio of one (1) staff for every five (5) children.

(e) An expedition shall last no more than twenty-eight days, except upon written permission of the Department granting an extension, after which children on the camping expedition shall return to the base camp.

(f) Children must remain at the base camp at least ten days between mobile camping expeditions and activities.

(g) While on an expedition, the camp shall provide:

(i) Personal hygiene supplies that are biodegradable;

(ii) Means for a child to bathe or clean his or her body at least twice weekly;

(iii) Females with hand sanitizing wipes or similar products as well as feminine products for feminine hygiene purposes; and

(iv) A way to launder clothes or provide clean clothes at least weekly.

### (15) Hiking.

(a) Hiking shall not exceed the physical capability of the weakest member of the group.

(b) The weight of a backpack to be carried by each child shall be based upon the physical condition of the child.

(c) Hiking shall be prohibited at excessive temperatures or weather conditions.

(d) Staff shall carry thermometers which accurately display the current outside temperature.

(e) If a child cannot or will not hike, the group shall not continue unless eminent danger exists. The reasons for refusal or inability to continue will be established and resolved before hiking continues. Program directors are responsible to train staff regarding this standard and to regularly monitor compliance.

E. Services to Children.

(1) Admissions.

(a) Intake policies shall be clearly defined, and admission shall be in keeping with the intake policies and limited to those children who fall within the scope of the wilderness therapeutic camp's purpose.

(b) Assessment and decisions about admissions shall be based upon an intake study (completed prior to admission) of the total situation of the needs of the child and family. Emergency admissions shall not be made.

(c) The intake study shall be prepared by the social service worker and shall be maintained in the child's record. The study shall include a summary of at least the following information:

(i) Current (within 1 year) evaluation by a licensed psychiatrist or psychologist or mental health evaluation by a licensed physician;

(ii) A description of family relationships and the circumstances that make the placement necessary;

(iii) The child's developmental history and ability of the child to communicate;

(iv) The parents' or placement agency's expectation of placement;

(v) The child's understanding of placement;

(vi) A description of the child's personality, behavior, and interests;

(vii) The child's school history;

(viii) History of previous placements;

(ix) A statement about the child's legal status;

(x) A statement of the child's room, board and watchful oversight needs;

(xi) The immediate and long-range goals of placement;

(xii) The name of the family member or the placement agency who will be responsible for the relationship with the wilderness therapeutic camp and the child;

(xiii) Medical/dental history;

(xiv) Religious preference; and

(xv) List of friends or others that may be permitted to have contact with the child if approved by the facility (this shall include for legal reasons or special circumstances those individuals that must not have contact with the child as well).

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(d) A child who has a history of highly sexualized behavior, is considered to have perpetrated on other peers, and has a history of peer to peer sexual activity shall not be considered appropriate for placement at a wilderness camp.

(e) Decisions regarding admissions shall be the responsibility of either the director and/or a Case Committee (which may include the director, the wilderness therapeutic camp's social worker, the child care worker/houseparent, etc.) and shall be limited to those persons to whom this responsibility is assigned.

(f) Children under eight (8) years of age shall not be admitted for care in a wilderness therapeutic camp.

(g) The intake process shall include a discussion with the child about placement and his or her parents or Placement Agency. It shall also include a visit to the Camp.

(h) The wilderness therapeutic camp shall provide orientation for new children.

(i) The wilderness therapeutic camp shall comply with the Interstate Compact on the Placement of Children when admitting children from another state.

(j) No child shall reside at the camp for more than twelve consecutive months unless the camp has completed a full evaluation that determines the child is not ready for reunification with the child's family or guardian. In order to ensure the safety, health and care of a child residing longer than twelve consecutive months, the wilderness therapeutic camp shall obtain:

(i) A report of a physical examination by a licensed physician, physician assistant, clinical nurse specialist, certified nurse practitioner, or certified nurse-midwife. Any written documentation of the physical examination shall be completed by the individual who conducted the examination; and

(ii) A report of a psychiatric or psychological examination conducted by a psychologist, psychiatrist or other appropriately licensed professional or a mental health evaluation by a licensed physician with no direct affiliation to the camp. Any written documentation of the psychiatric or psychological examination shall be completed by the individual who conducted the examination.

### (2) Clothing and Equipment.

(a) The wilderness therapeutic camp shall request that the parent, legal guardian or placing agency provides each child with an adequate supply of individually selected, properly fitted clean clothing, suitable for outdoor living and appropriate for weather conditions, as well as sturdy, water resistant outdoor shoes or boots.

(b) If the parent, legal guardian or placing agency is not able to or does not provide adequate clothing, then the wilderness therapeutic camp shall provide the necessary clothing.

(c) Whenever possible, children shall be involved in the purchase and selection of new or donated clothing. Donated clothing may be used if in good condition.

(d) Clothing belonging to a child shall be taken with the child upon discharge.

(e) Children will be provided with the necessary equipment and supplies for outdoor activities at the wilderness therapeutic camp. Such equipment shall include the following:

(i) Sunscreen; the program staff shall ensure appropriate consumer usage;

(ii) Insect repellent;

(iii) Personal hygiene items; and

(iv) Female hygiene supplies for females.

(3) Nutrition.

(a) Meals with nutritional content that conforms to USDA recommendations shall be provided three times per day and wholesome, nutritious, and enjoyable snack options shall be provided between meals.

(b) Adults shall be present and providing appropriate supervision during the preparation and serving of meals.

(c) Menus encompassing four weeks that have been approved by a qualified nutritionist or dietician (i.e., degreed or certified in the area of nutrition) shall be submitted annually by the wilderness therapeutic camp. Documentation of the approved menus shall be on file for review at the time of licensing/relicensing.

(d) Menus shall be posted and followed.

(e) The only allowable substitutions are those that replace one item of a food group for another item of the same food group. Substitutions shall be documented on the posted menu.

(f) The same meal shall be provided for staff and children with the exception of the beverage.

(g) Water shall be available at each campsite.

(4) Discipline.

(a) The wilderness therapeutic camp shall adopt (and revise as appropriate) a written discipline code which shall include all policies, procedures and practices on disciplinary actions which are to be utilized by staff and procedures to be followed in administering and reporting discipline. The discipline code shall be submitted at the time of licensing/relicensing and when revisions occur.

(b) The written discipline code shall be shared (initially and when changes occur) with all staff members, children, parents, guardians and referral sources.

(c) The wilderness therapeutic camp is subject to South Carolina laws relating to child abuse and neglect. The wilderness therapeutic camp must immediately report incidents of suspected abuse or neglect to the South Carolina Department of Social Services Out of Home Abuse and Neglect Unit or to a law enforcement agency in the county where the child resides or is found. All staff shall be apprised of their role as a mandated reporter.

(d) Cruel, inhumane and inappropriate punishment is prohibited. This includes but is not limited to the following: head shaving or any other dehumanizing or degrading act; deprivation of food or family visits; deprivation of mail; slapping or shaking; the use of handcuffs; a pattern of threats of removal from the wilderness therapeutic camp as a punishment; disciplining a child for a medical or psychological problem over which he/she has no control (e.g., bedwetting, stuttering, etc.); denial of communication and visits with family members; demeaning acts designed to embarrass children (i.e., pushing a peanut with your nose etc.); denial of essential program services; denial of shelter, clothing, or personal needs; excessive physical exercise; excessive work tasks; verbal abuse.

(e) Efforts will be made to ensure the language of the discipline procedures shall be within each child's cognitive ability.

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(f) All discipline techniques must begin with the least restrictive methods. Children who have been placed by a public agency or who are in the custody of the state shall not be subjected to corporal punishment. Otherwise, written permission must be obtained by the parent or legal guardian.

(g) Isolation rooms or techniques shall not be used.

### (5) Restraints.

(a) Wilderness therapeutic camps that use restraints shall have a written restraint policy that complies with the following:

(i) All child care staff must be trained and certified through a nationally accredited restraint training curriculum.

(ii) Restraints shall only be used in circumstances in which the child poses a significant threat to himself or others, when less restrictive interventions have already been attempted or are not appropriate, and when the client's condition has been taken into consideration.

(iii) Chemical restraints may be implemented only under the supervision of a physician, physician's assistant or nurse practitioner with prescriptive authority.

(iv) Wilderness therapeutic camp staff shall be aware of each child's medical and psychological conditions, as evidenced by written acknowledgement by the affected staff of such awareness, to ensure that the emergency safety intervention that is utilized does not pose any undue danger to the physical or mental health of the child.

(v) Restraints must be discontinued as soon as the child demonstrates compliance or is no longer deemed dangerous.

(b) At a minimum, the restraint training curriculum that is utilized shall include the following:

(i) Techniques for de-escalating problem behavior including child and staff debriefings;

(ii) Appropriate use of emergency safety interventions;

(iii) Recognizing aggressive behavior that may be related to a medical condition;

(iv) Awareness of physiological impact of a restraint on the child;

(v) Recognizing signs and symptoms of positional and compression asphyxia and restraint associated cardiac arrest;

(vi) Instructions as to how to monitor the breathing, verbal responsiveness, and motor control of a child who is the subject of an emergency safety intervention;

(vii) Appropriate self-protection techniques;

(viii) Policies and procedures relating to using manual holds, including the prohibition of any technique that would potentially impair a child's ability to breathe;

(ix) Camp policies and reporting requirements;

(x) Alternatives to restraint;

- (xi) Avoiding power struggles;
- (xii) Escape and evasion techniques;
- (xiii) Time limits for the use of restraint;
- (xiv) Process for obtaining approval for continual restraints;
- (xv) Procedures to address problematic restraints;
- (xvi) Documentation;
- (xvii) Investigation of injuries and complaints;
- (xviii) Monitoring physical signs of distress and obtaining medical assistance; and
- (xix) Legal issues.

(c) Wilderness therapeutic camps shall submit to the Department of Social Services Group Home Licensing Unit electronically or by facsimile a report in a format acceptable to the Agency at the conclusion of each month whenever the following conditions apply:

(i) For any wilderness therapeutic camp with a licensed capacity of 20 children or more, any 30-day period in which three or more instances of restraints of a specific child occurred and/or whenever the wilderness therapeutic camp has had a total of 15 restraints for all children in care within the 30-day period; and

(ii) For any wilderness therapeutic camp with a licensed capacity of less than 20 children, any 30-day period in which three or more instances of restraints of a specific child occurred and/or whenever the wilderness therapeutic camp has had a total of 10 instances for all children in care within the 30-day period.

(d) At least once per quarter, the wilderness therapeutic camp, utilizing a master restraint log and the child's case record, shall review the use of all restraints for each child and staff member, including the type of intervention used and the length of time of each use, to determine whether there was a clinical basis for the intervention, whether the use of the restraint was warranted, whether any alternatives were considered or employed, the effectiveness of the intervention or alternative, and the need for additional training. Written documentation of all such reviews shall be maintained. Where the wilderness therapeutic camp identifies opportunities for improvement as a result of such reviews or otherwise, the wilderness therapeutic camp shall implement these changes through an effective quality improvement plan.

(6) Family Relationships/Visitation.

(a) Unless a child has been removed from the custody of his/her own family and visitation is specifically prohibited by a court order or other legal document, every effort shall be made (in coordination with the referral agency when one is involved) to strengthen family relationships and to help the parent(s) make a responsible plan for the permanent care of their child(ren). This shall include encouraging the parents/relatives to visit on-site and to have the child visit with them off-site as appropriate.

(b) Plans for family visitation shall be included in the written plan of care for the child.

(c) Correspondence between the child and the family shall not be censored, except in extreme circumstances (e.g., sending/receipt of contraband, dangerous materials, sexually explicit, etc.) with those involved being advised that their correspondence is being censored. The reason for censorship shall be documented in the child's record.

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(d) All incoming mail may be required to be opened in the presence of staff.

### (7) Exploitation.

(a) A wilderness therapeutic camp shall not use a child for solicitation of funds, without the written permission of the parent or legal guardian and the child (if more than ten years of age). This shall include the child making or giving public statements pertaining to his/her history or dependency on or gratitude to the wilderness therapeutic camp; the wilderness therapeutic camp making such public statements about a particular child; or having a child collect or solicit donations on behalf of the wilderness therapeutic camp.

(b) A wilderness therapeutic camp shall obtain the written consent of the child's parent(s), or legal custodian before using the child's name, photograph or other identifying information in any form of written, visual or verbal communication which will be made public (e.g., social media, newspaper, television or radio articles/publicity materials; materials mailed or otherwise distributed by the wilderness therapeutic camp to the public, etc.).

### (8) Medical Care.

#### (a) Health Care.

(i) There shall be adequate provision for immediate, current, and routine health care needs, including mental health, with services available at all times. A child's general health care shall be under the direction of one specific doctor, clinic, or other licensed health facility.

(ii) A wilderness therapeutic camp must be apprised of a child's physical condition, physical disability, or communicable diseases.

(iii) Within six months prior to or within seventy two hours after admission to a wilderness therapeutic camp, the parent, legal guardian, or placing Agency shall ensure a child has a recorded medical examination conducted by a licensed physician or a licensed nurse practitioner.

(iv) The executive director shall develop policies and procedures to assure that State laws prohibiting minors from smoking are enforced in all wilderness therapeutic camps. Policies and procedures shall assure that children are not exposed to second-hand smoke while at the wilderness therapeutic camp or in the custody of staff.

(v) Each child shall be provided with all required inoculations as well as such additional inoculations as may be appropriate under the circumstances, except with a documented medical or religious exemption obtained from a licensed physician or from the Department of Health and Environmental Control. All necessary medical care with respect to treatment of illness and correction of physical disabilities shall be carried out promptly.

(vi) A wilderness therapeutic camp shall maintain on file a record as to each child of an annual health examination by a licensed physician or a licensed nurse practitioner.

#### (b) Hospitalization.

(i) The wilderness therapeutic camp shall make provision and establish procedures for hospitalization when needed for children under its care.

(ii) If a child is in need of hospitalization or medical treatment, the child's legal guardian, parent or caseworker must be notified as soon as possible.

(iii) Medical consent for planned hospitalization or a medical treatment must be obtained from the child's legal guardian, parent or an appropriate Agency representative.

(c) Illness and First Aid.

(i) Each member of the child care staff shall be able to recognize the common symptoms of illness of children and to note any obvious physical disability.

(ii) A wilderness therapeutic camp shall ensure at least one staff member per working shift is certified in first aid and cardiopulmonary resuscitation. At least one staff person who escorts children on expeditions off site should be trained in wilderness first aid.

(iii) A written first aid plan and a first aid kit shall be available to child care staff.

(iv) First aid supplies shall be available and administered by a trained staff member.

(d) Dental Care.

(i) Children shall have had a dental examination by a licensed dentist within the six months prior to admission. Dental treatment shall be provided as recommended by the examining dentist.

(ii) Each wilderness therapeutic camp shall have a specific plan for dental care and dental health that shall be consistently followed. The plan shall provide for, at a minimum, annual checkups by a licensed practitioner.

(e) Health Records. A continuous medical record reflecting each child's growth and development, illnesses, treatments, inoculations, dental care, etc., shall be kept at the wilderness therapeutic camp.

(f) Medications.

(i) Persons administering medication shall have received appropriate training. Documentation of training shall be filed in the individual's personnel record.

(ii) A wilderness therapeutic camp shall designate and authorize specific staff to administer medications and supervise the taking of medications. Only designated and authorized staff shall administer and supervise the taking of medication. Staff will ensure medication has been taken by the person to which it is prescribed. If a designated and/or authorized staff member makes three medicine errors in 30 days, then that staff member shall not administer medications until the staff member receives additional training by the facility director or designated staff as appropriate to the specific circumstances. Documentation of how the issue was addressed shall be maintained by the facility.

(iii) All medications shall be kept in a double locked secure area, accessible only to staff.

(iv) If children are away from the camp during the time they need to take their medication or over 24 hours, camp staff shall keep medicines locked in the daypack and kept on the staff person who is responsible and trained to administer medication.

(v) All prescription medication shall be labeled for the individual child including the dosage and frequency of the dose.

(vi) A log must be maintained to document the time the medication was administered, the dosage and the name of the person administering the medication. The log must also record any changes in medication or treatment or incidents when the child failed to receive the medication.



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(vii) If medications are discontinued, the remaining medications shall be destroyed following the recommendations of the South Carolina Department of Health and Environmental Control.

(g) Medical Costs. The person or entity with custody shall be responsible for payment of any medical services received that are not covered by insurance.

### (9) Academic and Vocational Training.

(a) Each wilderness therapeutic camp shall be responsible for providing an opportunity for academic training and/or vocational training in accordance with the abilities and needs of the children.

(b) Wilderness therapeutic camps providing on-site educational programs must meet compulsory education requirements as defined by the South Carolina Department of Education.

(c) Children who are eligible (based on federal standards) shall have independent living goals and strategies as part of their service plan.

(d) Children shall be permitted and encouraged to participate in extracurricular activities such as sports, art, and music to the extent of their interests.

(e) School attendance shall be in accordance with state law requirements and be in accordance with the ability and best interests of the child.

### (10) Religion.

(a) Each wilderness therapeutic camp shall have clearly defined policies regarding the availability of religious training for the information of those considering the placement of a child. This information shall be made available to parents, legal guardians and children.

(b) The wilderness therapeutic camp shall provide access to religious services and/or religious counseling at least once each week. Attendance shall be voluntary. A minor shall be allowed to participate in other program activities if he/she elects not to participate in religious programs.

(c) Religious programs shall provide for, at minimum:

(i) opportunity for religious services;

(ii) availability of clergy; and

(iii) availability of religious diets.

### (11) Disaster Plans.

(a) A written disaster plan, including a plan for transportation, must be included as part of the policy and procedure manual. Types of disasters for which the facility must prepare include, but are not limited to: hurricane, severe thunderstorm, tornadoes, chemical emergency, power outage, wildfire, heat wave, flood and winter storm. The plans shall include options for evacuation sites that are a safe distance away from the disaster. The plans shall be reviewed annually by all staff and resubmitted as part of the annual relicensing requirements.

(b) In the event of a mandatory evacuation order due to a disaster, children are to be evacuated to a designated shelter or a safe location that is not threatened by the disaster.

### (12) Discharge and Aftercare.

(a) The wilderness therapeutic camp shall adopt and update, as appropriate, written policies concerning discharge and aftercare.

(b) Careful evaluation shall be made on an ongoing basis in order to assess when and if a child may be returned to his/her own home, placed in a foster home or with relatives, or transferred to another facility better suited to meet his/her needs.

(c) A wilderness therapeutic camp shall provide sufficient notice to the child and the referral source prior to discharge to allow arrangements for an appropriate alternative placement to be made.

(d) A wilderness therapeutic camp will complete a discharge report for a child residing in a wilderness therapeutic camp for ninety (90) or more days. The discharge report shall include major recommendations and outcomes, list records to be transferred, and be available to the Agency or legal guardian within ten (10) days of discharge.

(13) Foster Home Care. Children placed in a wilderness therapeutic camp of a particular organization may not be moved to one of its foster homes unless the wilderness therapeutic camp is licensed as a Child Placing Agency, the foster home is licensed, and the wilderness therapeutic camp has the permission of the placing entity.

(14) Records.

(a) Every wilderness therapeutic camp shall maintain a confidential case record as required by South Carolina Code Section 63-11-80, stored in a locked or secure area, which may not be disclosed except for purposes directly connected with the administration of the wilderness therapeutic camp or for the care and well-being of a child.

(b) The file shall contain the following:

(i) Application for services;

(ii) A study of the child in context of their family, provided by the referring party, including a statement regarding custody and legal responsibility for the child;

(iii) A copy of the birth certificate provided by the placing entity;

(iv) Authorization for medical treatment signed by parent or guardian;

(v) Reports on medical care, inoculations, dental care, and psychological and psychiatric reports, if any are available;

(vi) Current record of the child's physical, emotional, social and academic progress in residential group care, and relationships with the family while the child is under care;

(vii) Discharge information and plan for return to the community;

(viii) Documentation that the legal guardian or parent has been informed whenever a child has been involved in a major behavior incident;

(ix) Documentation of major behavior incidents; and

(x) Documentation that the designated prudent parent has brought to the child's attention multiple age or developmentally-appropriate activities as required by the Prudent Parent Standard.

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### (15) Transportation.

- (a) Vehicles transporting children will comply with all state and federal laws.
- (b) No vehicle shall transport more children than the manufacturer's rated seating capacity.
- (c) The bed of an open body or stake bed vehicle must not be used for transporting children.
- (d) Each vehicle shall be equipped with an adequately supplied first aid kit.
- (e) Staff and children shall wear seat belts at all times while the vehicle is moving.
- (f) Each wilderness therapeutic camp must have a policy and written disaster plan for transporting children in the event of an emergency or disaster.
- (g) Drivers of vehicles shall have a valid driver's license and follow safety requirements of the State.
- (h) At least one driver must be certified in cardiopulmonary resuscitation and first aid.

### (16) Tasks.

- (a) Assigned tasks shall be appropriate to the age and abilities of the child and assigned for the purpose of training in skills and attitudes and in the proper assumption of personal responsibility.
- (b) The wilderness therapeutic camp shall differentiate between tasks of daily living, jobs to earn spending money, and jobs to gain vocational training.
- (c) Daily living tasks shall be made known to the child during orientation and the child shall be given some choice in chores with duties that provide a variety of experiences.
- (d) The rules on jobs to earn spending money or gain vocational training shall be made known to all age appropriate children. Opportunities to participate shall be made available in accordance with the child's age and abilities and so as not to interfere with other educational activities.
- (e) Children shall not substitute for staff nor regularly perform tasks more appropriately assigned to staff.
- (f) The wilderness therapeutic camp shall comply with the Fair Labor Standards Act (child labor laws).

## F. Licensing.

(1) Inquiries. Requests for information regarding an application for a license shall be sent to the South Carolina Department of Social Services (SCDSS). SCDSS will then send a copy of the rules and regulations governing the license. Consultation will be available upon request.

### (2) Procedure for Initial Licensing.

(a) With the initial application for a license, the following information shall be sent to the South Carolina Department of Social Services:

- (i) A completed formal application, including all forms assuring compliance with Federal laws;
- (ii) A copy of the charter or law establishing the wilderness therapeutic camp;

- (iii) A copy of the constitution or bylaws, and operating procedures;
- (iv) A copy of a map for the entire camp;
- (v) A copy of the floor plan for each wilderness structure used for sleeping;
- (vi) A statement of the purpose, scope of services to be provided, intake policy specifying age, gender, type of children to be accepted for care, and the area of the state in which it plans to operate and serve;
- (vii) A current list of governing board members, including names, positions, addresses and phone numbers for each, and committees;
- (viii) A financial statement showing assets, income and sources thereof, verification of a minimum of three (3) months operating capital on hand;
- (ix) The wilderness therapeutic camp's initial budget, including estimated income and expenditures for the first year;
- (x) A copy of the current policy and procedural manual;
- (xi) The number of buildings and a statement regarding the general condition of the wilderness structures and/or physical facilities;
- (xii) Verification of local building and zoning compliance;
- (xiii) A current fire inspection report;
- (xiv) A current health and sanitation inspection report;
- (xv) Disaster plan, including plan for transportation of children;
- (xvi) Documentation of recreational activities that will be implemented and are appropriate to the developmental needs, and interests of children;
- (xvii) Menus encompassing four weeks that have been approved by a qualified nutritionist or dietician;
- (xviii) Job descriptions, including education and work experience requirements for staff;
- (xix) Names and job titles of staff, and proof of education and work experience as evidenced by completed applications or resumes;
- (xx) Medical examination reports for all child care staff;
- (xxi) Tuberculosis screening for all staff;
- (xxii) Memorandum of Agreement on Criminal Record Checks;
- (xxiii) South Carolina State Law Enforcement Division (SLED) criminal records checks and FBI fingerprint checks for all staff and volunteers who have unsupervised contact with children;
- (xxiv) South Carolina Sex Offender Registry Check verification for all staff and volunteers who have unsupervised contact with children;

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(xxv) National Sex Offender Registry Check verification for all staff and volunteers who have unsupervised contact with children;

(xxvi) South Carolina Child Abuse and Neglect Central Registry checks for all staff and volunteers who have unsupervised contact with children;

(xxvii) Documentation of orientation training completed by each staff member;

(xxviii) Documentation of a nationally accredited restraint training certification for all child care staff who may restrain children; and

(xxix) Documentation of first aid and cardiopulmonary resuscitation for at one staff member per working shift and wilderness first aid for at least one staff person who escorts children on expeditions off site.

(b) As soon as possible after the receipt of the application for a license, a representative of the South Carolina Department of Social Services will visit the wilderness therapeutic camp and will secure information on which to evaluate the program in relation to licensing standards.

(c) If the wilderness therapeutic camp wishes to operate a foster home or adoptive home program in addition to caring for children in residential group care, it will be necessary to submit additional information as required for a license to operate a Child Placing Agency.

### (3) License.

(a) The terms of the license, the number, age and gender of children to be maintained will be stated in the license issued.

(b) A License will be issued when a wilderness therapeutic camp meets all applicable regulations. A License is effective for twelve months from the date of issuance.

(c) The license shall be displayed at all times.

(d) The wilderness therapeutic camp shall not deviate from the provisions specified in the license issued.

(e) The license is not transferable, is specific to the location, owner or governing organization, and existing buildings at the time of licensure.

### (4) Denial or Revocation of a License.

(a) The Agency may refuse to issue a license, or may revoke the license of a current licensee, if the applicant/licensee:

(i) Fails to comply with wilderness therapeutic camp licensing regulations;

(ii) Violates state or federal laws;

(iii) Abuses or neglects children as defined in S.C. Code Section 63-7-20 (also refer to Discipline, E(4));

(iv) Knowingly employs, on a paid or volunteer basis, a person with a past/current history of child abuse or is on the South Carolina Central Registry of Child Abuse and Neglect or fails to terminate their employment once the record is known;

(v) Makes a false statement or a misrepresentation to the Department of Social Services that adversely impacts the care and safety of children;

(vi) Refuses to submit licensing or child specific information or reports to the Agency as it relates to care and safety of children;

(vii) Fails to cooperate, withholds information, or impedes an investigation of child abuse or neglect;

(viii) Fails to provide, maintain, equip, and keep safe and sanitary the wilderness therapeutic camp to care for children;

(ix) Fails to provide adequate financial resources to maintain the wilderness therapeutic camp; or

(x) Fails to notify the Agency of any structural improvements or new construction within three (3) working days.

(b) The Agency is empowered to seek an injunction against the continuing operation of a wilderness therapeutic camp as provided in Section 63-7-1210, including the following:

(i) When a wilderness therapeutic camp is operating without a license; or

(ii) When the Agency determines a threat of harm exists to children in the wilderness therapeutic camp.

(c) Notification. Written notice will be given to an applicant or wilderness therapeutic camp by certified mail or hand delivered by an Agency representative, if the license is revoked or denied.

(d) Appeals. Any wilderness therapeutic camp whose application has been denied or revoked, may request a hearing within thirty (30) days of receipt of notification of the Agency's decision. Requests for appeals must be forwarded to the South Carolina Department of Social Services, Office of Administrative Hearings.

(5) Termination of License.

(a) Expiration of License. A License expires automatically at the end of twelve months from the date of the issuance of the license unless renewed or cancelled prior to that date.

(b) Cancellation of License. A license shall be cancelled if there is a deviation from the provisions of the license or if the location of the wilderness therapeutic camp or the wilderness therapeutic camp organization operating the facility changes.

(6) Annual Review and Relicensing.

(a) Annually, all licensed wilderness therapeutic camps must submit the material listed below to the South Carolina Department of Social Services. Continued licensing will be based on a review of this material and a visit(s) by a representative of the Agency to tour the wilderness therapeutic camp, review the program, audit children's records, and interview staff and/or children as appropriate. The material to be submitted includes the following:

(i) A completed formal application;

(ii) An annual population report;

(iii) A current list of governing board members, including names, positions, addresses and phone numbers for each, and committees;

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- (iv) A copy of the wilderness therapeutic camp's most recent financial statement;
- (v) An estimated budget for the wilderness therapeutic camp's current fiscal year;
- (vi) A copy of the discipline policy;
- (vii) A report of any major changes in program or the wilderness structures and/or physical facilities planned for the coming year;
- (viii) A report of a fire inspection that was completed within the past licensing period;
- (ix) Record of monthly fire drills for fire and emergency evacuation that are held at different times;
- (x) A health and sanitation inspection report that was completed within the past licensing period;
- (xi) Disaster plan, including plan for transportation of children;
- (xii) Documentation of at least three months of recreational activities that were implemented and were appropriate to the developmental needs, and interests of children;
- (xiii) Menus encompassing four weeks that have been approved by a qualified nutritionist or dietician;
- (xiv) The names and job titles of current staff and completed applications or resumes for staff who have been employed since the last license was issued;
- (xv) Reports of medical examinations for each new child care staff employed after the date of the previously issued license and a statement of freedom from contagious disease for all other child care staff;
- (xvi) Tuberculosis screening for all staff;
- (xvii) Memorandum of Understanding on Criminal Record Checks if a new chief executive officer has been hired and the completed agreement has not yet been obtained;
- (xviii) Current South Carolina Law Enforcement Division (SLED) criminal records checks and FBI fingerprint checks for all staff and volunteers who have opportunity for unsupervised contact with children as outlined in (C)(12);
- (xix) Current South Carolina Sex Offender Registry Checks for staff and volunteers who have opportunity for unsupervised contact with children as outlined in (C)(12);
- (xx) Current National Sex Offender Registry Check verification for all staff and volunteers who have unsupervised contact with children as outlined in (C)(12);
- (xxi) Current South Carolina and out-of-state child abuse and neglect registry checks for all staff and volunteers who have opportunity for unsupervised contact with children as outlined in (C)(12);
- (xxii) Documentation of at least fourteen (14) hours of training within the last year for all child care staff;
- (xxiii) Documentation of a nationally accredited restraint training certification for all child care staff who may restrain children;

(xxiv) Documentation of first aid and cardiopulmonary resuscitation for at one staff member per working shift and wilderness first aid for at least one staff person who escorts children on expeditions off site; and

(xxv) Documentation from a county building inspector may be required if the Agency suspects a new or existing building or structure poses a risk of harm to children.

(b) Any deficiencies or corrective action plans previously cited must be cleared prior to the renewal of the license unless otherwise approved by the Agency.

(7) Authorized actions by the Agency.

(a) Licensing staff from the agency may make visits to the wilderness therapeutic camp without prior notice to ascertain continued compliance with these requirements.

(b) The Agency shall investigate complaints to determine if the wilderness therapeutic camp is meeting licensing requirements and shall take appropriate and necessary actions based on its findings.

(c) The Agency shall inform the director of the wilderness therapeutic camp of any deficiencies or corrective action plans that have been implemented as the result of a complaint or unannounced visit.

(d) If the director is the subject of the complaint, the chairman of the board will be notified.

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

As the administrator of the State's foster care system, the Department of Social Services is responsible for establishing and promulgating rules and regulations for the licensure of Wilderness Therapeutic Camps for Children. The above referenced regulations, regarding licensure of Wilderness Therapeutic Camps for Children, need amendments to enhance consistency in licensing standards among child serving organizations licensed by the department and reduce burdensome requirements.

The proposed amendments promote the application of a consistent set of rules and regulations for the licensure of Wilderness Therapeutic Camps for Children, thereby promoting the safety, permanency, stability, and well-being of children who are in the State's foster care system.