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# SOUTH CAROLINA STATE REGISTER

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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.

# ***THE 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 OF THE SOUTH CAROLINA STATE REGISTER**

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 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.

## **2000 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	1/14	2/11	3/10	4/14	5/12	6/9	7/14	8/11	9/8	10/13	11/10	12/8
Publishing Date	1/28	2/25	3/24	4/28	5/26	6/23	7/28	8/25	9/22	10/27	11/24	12/22

## **REPRODUCING OFFICIAL DOCUMENTS**

All documents appearing in the South Carolina *State Register* are prepared and printed at public expense. All media services are especially encouraged to give wide publicity to all documents printed in the *State Register*.

## **PUBLIC INSPECTION OF DOCUMENTS**

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

## **CERTIFICATE**

Pursuant to Section 1-23-20, Code of Laws of South Carolina, 1976, this issue contains all previously unpublished documents required to be published and filed before the closing date of the issue.

Lynn P. Bartlett  
Editor

## **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 renewable once.

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## SUBSCRIPTIONS

The *State Register* is published on the fourth Friday of each month by the Legislative Council of the General Assembly of the State of South Carolina. Subscription rate is \$95.00 per year postpaid to points in the United States. Partial subscriptions may be ordered at the rate of \$8.00 per issue for the remainder of a subscription term. Subscriptions begin July 1 and end June 30.

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**REGULATIONS SUBMITTED TO GENERAL ASSEMBLY**

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

**GOVERNOR’S EXECUTIVE ORDERS**

No. 2000-26            South Carolina Home and Community-Based Services Task Force ..... 2

**NOTICES**

**HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF**  
Certification of Need ..... 4  
Infectious Waste Management ..... 5  
Licensing Community Residential Care Facilities..... 6  
Specific Project Standards for Tidelands and Coastal Waters ..... 7

**NOTICES OF DRAFTING REGULATIONS**

**CLEMSON UNIVERSITY**  
**State Crop Pest Commission**  
Plum Pox Virus ..... 8

**HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF**  
Air Pollution Control Regulations and Standards..... 8

**LABOR, LICENSING AND REGULATION, DEPARTMENT OF**  
**Long Term Health Care Administrators, Board of**  
Community Residential Care Facility Administration..... 9  
**Pilotage for the Port of Charleston, Commissioners of**  
Short Branch License ..... 9

**PROPOSED REGULATIONS**

**EDUCATION, STATE DEPARTMENT OF**  
Document No. 2587            Defined Program, Grades 9-12 ..... 10

**PUBLIC SERVICE COMMISSION**  
Document No. 2586            Definition of a Limousine..... 11

**TABLE OF CONTENTS**

**EMERGENCY REGULATIONS**

**NATURAL RESOURCES, DEPARTMENT OF**

Document No. 2589                      Drought Management ..... 13

**FINAL REGULATIONS**

**HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF**

Document No. 2539                      Underground Injection Control ..... 23

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

Document No. 2588                      Occupational Safety and Health Standards ..... 28

## REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

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

DOC NO.	RAT NO.	FINAL SR	SUBJECT	EXP. DATE	AGENCY
1981			Policy Development	1 12 01	Board of Education
1984			Principal Evaluation	1 12 01	Board of Education
2360			LIFE Scholarship	1 19 01	Commission on Higher Education
2481			School Transportation	1 24 01	Board of Education
2504			Environmental Protection Fees	1 27 01	Health and Environmental Control
2457			Septic Tank Site Evaluation Fees	1 28 01	Dept Health and Envir Control
2502			Public Pupil Transportation Services	2 04 01	Board of Education
2485			(Repeal) Credit and Discount Plans	2 20 01	Dept of Insurance
2487			(Repeal) Merit Rating Plan	2 20 01	Dept of Insurance
2486			(Repeal) Refusal to Write, Cancellation	2 20 01	Dept of Insurance
2511			Hunt Units and WMA's	2 20 01	Dept Natural Resources
2503			Optional State Supplementation Prog	2 27 01	Health and Human Services
2507			Repayment	3 06 01	Higher Education, Student Loan Corp
2514			LIFE, Palmetto Fellows Sch Appeals	3 12 01	Commission on Higher Education
2521			(Repeal) Loan Eligibility Requirements	3 24 01	Jobs-Economic Development Authority
2497			Quarantine of Garbage Fed Swine	4 22 01	Clemson University
2496			Brucellosis Testing	4 22-01	Clemson University
2530			Waste Disp Sites, Landfill Design, Const	5 09 01	Dept of Health and Envir Control

### REQUEST FOR AN ASSESSMENT REPORT (120 DAY REVIEW PERIOD TOLLED)

DOC NO.	DATE	SUBJECT	AGENCY
2248	4 14 99	Primary and Substantial Portion (Video Game Machines)	Dept of Revenue

### REQUEST TO WITHDRAW (120 DAY REVIEW PERIOD TOLLED)

DOC NO.	DATE	SUBJECT	AGENCY
2193	2 11 98	Video Poker; Def "Single Place" ...	Dept of Revenue
2433	2 23 00	Hearing Aids; Augmen Comm Devices	LLR: Speech-Language Path & Audio
2469	2 23 00	Volunteer Pharm Tech Free Med Clinics	LLR: Board of Pharmacy



## 2 EXECUTIVE ORDERS

### No. 2000-26

**WHEREAS,** the State of South Carolina is committed to providing community-based alternatives for persons with physical, mental, or developmental disabilities and recognizes that such services advance the best interest of all South Carolinians; and

**WHEREAS,** South Carolina is committed to providing community-based services that effectively foster independence and acceptance of persons with physical, mental, or developmental disabilities; and

**WHEREAS,** programs such as home and community-based services provide the opportunity for persons with physical, mental, or developmental disabilities to live productive lives in their own communities; and

**WHEREAS,** as Governor of the State of South Carolina, I am committed to ensuring access to care and the provision of services to persons with physical, mental, or developmental disabilities in accordance with the Americans with Disabilities Act; and

**WHEREAS,** South Carolina must build upon its many successes and undertake a broader review of our programs for persons with physical, mental, or developmental disabilities and ensure services are offered in the most appropriate setting.

**NOW, THEREFORE,** I do hereby establish the South Carolina Home and Community-Based Services Task Force. The objective of the Task Force shall be to develop a comprehensive, effective, working plan as recommended by the United States Supreme Court in its recent decision in Olmstead v. LC., 119 S.Ct. 2176 (1999). The Task Force shall.

1. Conduct a comprehensive review of all services and support systems available to persons with physical, mental, or developmental disabilities in South Carolina. This review shall analyze the availability, application, and efficacy of existing community-based alternatives for persons with physical, mental, or developmental disabilities. The review shall focus on identifying affected populations, improving the flow of information about support services in the community, and removing barriers that impede opportunities for community inclusion.
2. The Task Force shall ensure the involvement of consumers, parents of consumers, advocates, providers and relevant agency representatives in developing the plan.
3. Submit a comprehensive written report of its findings to the Governor no later than June 29, 2001. The report will include specific recommendations on how South Carolina can improve its services for persons with physical, mental, or developmental disabilities by legislative, administrative, or agency action.
4. The plan shall contain a timeline for implementation.

5. All affected agencies and other public entities shall cooperate fully with the Task Force research, analysis and production of the report.
6. The South Carolina Developmental Disabilities Council shall provide staff support as necessary to assist the Task Force in carrying out the directives of this Executive Order.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF  
THE STATE OF SOUTH CAROLINA, THIS 2nd DAY OF  
NOVEMBER, 2000.**

**JIM HODGES  
Governor**

## 4 NOTICES

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication November 24, 2000, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 737-7200.

#### Affecting Anderson County

Addition of 16 nursing home beds to the existing facility for a total of 32 nursing home beds that participate in the Hospice only Medicaid Program.

Callie and John Rainey Hospice House  
Anderson, South Carolina  
Project Cost: \$ 1,550,000

#### Affecting Florence County

Establishment of a freestanding ambulatory surgery center for eye surgery with two (2) operating rooms.

Carolinas Eye Surgery and Laser Center, LLC  
Florence, South Carolina  
Project Cost: \$ 2,303,175

#### Affecting Greenville County

Relocate/expand outpatient Radiology Diagnostic and Therapeutic Services to MOB II with the addition of 1 CT Scanner for a total of 2 CT Scanners.

St. Francis Hospital, Inc.  
Greenville, South Carolina  
Project Cost: \$ 6,008,068

#### Affecting Greenwood County

Expansion of the critical care center to accommodate 10 additional beds resulting in a total of 30 critical care beds, with no change in the licensed bed capacity for the hospital.

Self Memorial Hospital  
Greenwood, South Carolina  
Project Cost: \$ 5,783,166

#### Affecting Lexington County

Construction of a diagnostic cardiac catheterization laboratory.

Lexington Medical Center  
West Columbia, South Carolina  
Project Cost: \$ 2,400,000

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning November 24, 2000. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 737-7200.

## Affecting Florence County

Renovation of leased space within the existing facility for the addition of forty-one (41) residential treatment beds for a total of fifty-nine (59) residential treatment beds for children and adolescents.

Palmetto Pee Dee Behavioral Health, LLC

Florence, South Carolina

Project Cost: \$ 1,105,166

## Affecting Greenville County

Development of Magnetic Resonance Imaging (MRI) and Computed Tomographic (CT) services as part of a diagnostic imaging center.

HealthSouth Diagnostic Center of Simpsonville

Simpsonville, South Carolina

Project Cost: \$, 4,380,210

## Affecting Greenwood County

Expansion of the critical care center to accommodate 10 additional beds resulting in a total of 30 critical care beds, with no change in the licensed bed capacity for the hospital.

Self Memorial Hospital

Greenwood, South Carolina

Project Cost: \$ 5,783,166

## Affecting Lexington County

Construction of a diagnostic cardiac catheterization laboratory.

Lexington Medical Center

West Columbia, South Carolina

Project Cost: \$ 2,400,000

## Affecting Spartanburg County

Renovation for the addition of a third Magnetic Resonance Imaging (MRI) System.

Spartanburg Regional Medical Center

Spartanburg, South Carolina

Project Cost: \$ 2,328,088

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

Section 44-93-210, Act Number 134 of 1989, as amended, the Infectious Waste Management Act, requires that beginning November 1, 1990, and annually thereafter, the Department

"shall estimate and publish the amount of infectious waste it expects to be generated within this State during the succeeding calendar year."

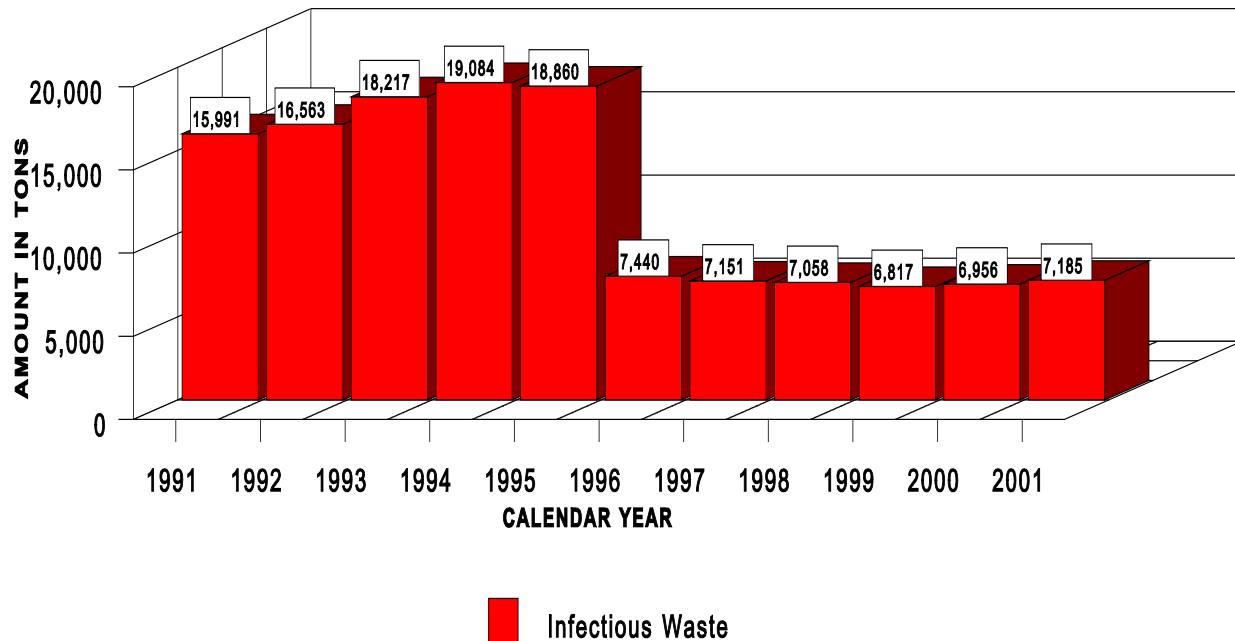
In accordance with this provision, the Department estimates that the amount of infectious waste it expects to be generated within this State during Calendar Year 2001 is 7,185.60 tons or 598.80 tons per month. Please note this is only an estimate based upon the information available to the Department as of October 6, 2000. An analysis of how the estimate was derived is available from the Bureau of Land and Waste Management. For further

## 6 NOTICES

information, please contact Mr. Phil Morris, Bureau of Land and Waste Management, 2600 Bull Street, Columbia, South Carolina, 29201, at (803) 896-4173.

# INFECTIOUS WASTE GENERATED

## IN SOUTH CAROLINA



## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

### NOTICE OF RESCHEDULING OF PUBLIC HEARING

Doc. No.2541, Proposed Amendment of R.61-84,  
*Standards for Licensing Community Residential Care Facilities*

The Department of Health and Environmental Control issued a Notice of Proposed Regulation for amendment of R.61-84, *Standards for Licensing Community Residential Care Facilities*, in the August 25, 2000, issue of the *State Register*, identified as Document No. 2541. The Notice scheduled a Staff Informational Forum that was held on September 27, 2000, a write-in public comment period that closed September 27, 2000, and a public hearing before the Department's Board on December 14, 2000. Due to time needed in which to consider all comments received, the public hearing scheduled for December 14, 2000, is being postponed to January 11, 2001. All public comments received through September 27, 2000, shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing.

The public hearing to be conducted by the Board of Health and Environmental Control for this proposed amendment will be held at the regularly-scheduled meeting of the Board on January 11, 2001, in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull St., Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearing will be

noticed in the Board's agenda to be published by the Department ten (10) days in advance of the meeting. Interested persons are invited to make oral or written comments on the proposed regulation at the public hearing. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record. Any comments made at the public hearing will be given consideration in formulating the final version of the amendment of R.61-84.

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**NOTICE OF TERMINATION OF PROPOSED REGULATION**

**DOCUMENT 2537**

Effective upon publication of this notice, the Department of Health and Environmental Control is terminating proposed amendment of R30-12. Specific Project Standards for Tidelands and Coastal Waters, Subsection Q, Maintenance Shelves for Existing Drainage Ditches. This amendment was published as Document No. 2537 on August 25, 2000, in the State Register Vol. 24 Issue No. 8.

## 8 DRAFTING

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

### **Notice of Drafting:**

The State Crop Pest Commission is contemplating drafting regulations concerning Plum Pox Virus. Plum Pox Virus, also known as Sharka disease, is a communicable disease of stone fruits, which include peaches, plums, cherries and apricots. Please address all comments to Dr. H. B. Jackson, Department of Plant Industry, 511 Westinghouse Road, Pendleton, S. C. 29670. To be considered, comments must be received no later than 5:00 P.M., on December 29, 2000, the close of the drafting comment period.

### **Synopsis:**

Plum Pox Virus has been reported in the United States. It is a systemic disease of plants. The disease, once established, may be controlled only by complete destruction of the plant. It may pose a serious threat to the state's stone fruit industry.

Legislative review of this proposal will be required.

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

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

### **Notice of Drafting:**

The Department of Health and Environmental Control (Department) proposes to amend Regulations 62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*, 62.63, *National Emission Standards for Hazardous Air Pollutants*, and 62.68, *Chemical Accident Prevention Provisions*, of the *Air Pollution Control Regulations and Standards*, R.61-62. Interested persons are invited to present their views in writing to Julie Seel, Regulatory Development Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered comments must be received by December 26, 2000.

### **Synopsis:**

The United States Environmental Protection Agency (USEPA) promulgates amendments to 40 CFR 60, 63, 68, and 72 throughout each calendar year. Recent amendments include clarification, guidance and technical amendments regarding New Source Performance Standards (NSPS), Hazardous Air Pollutants (HAPs), and Chemical Accident Prevention. The Department proposes to adopt the Federal amendments through January 1, 2001. The Department will also make any corrections to previous amendments as may be necessary. These amendments and any necessary corrections will maintain conformity with Federal requirements and ensure compliance with Federal standards. The proposed amendments in this Notice will not be more stringent than the current Federal requirements.

The proposed amendments will not require legislative review.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
BOARD OF LONG TERM HEALTH CARE ADMINISTRATORS  
CHAPTER 93**

Statutory Authority: 1976 Code Section 40-35-230

**Notice of Drafting:**

The Board of Long Term Health Care Administrators is considering proposing an amendment to Chapter 93 Section 80 relating to an administrator-in-training program for community residential care facility administration. The amendment would enable qualified candidates to participate in an organized training program to qualify for the community residential care facility administrator license. Written comments can be submitted to Dana Welborn, Board Administrator, at P.O. Box 11329, Columbia, South Carolina 29211-1329.

**Synopsis:**

The purpose of the amendment is to enable the board to create an administrator-in-training program in community residential care facility administration. Persons who qualify to be an AIT candidate would rotate through a board-approved AIT program under the supervision of a practicing community residential care facility administrator to qualify for the community residential care facility administrator license.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
COMMISSIONERS OF PILOTAGE FOR THE PORT OF CHARLESTON  
CHAPTER 136**

Statutory Authority: 1976 Code Sections 54-15-120; 54-15-140

**Notice of Drafting:**

The Commissioners of Pilotage for the Port of Charleston is considering amending Regulation 136-020(C)(1) to increase the deep draft limitation on an initial (first) short branch license from 28 feet to 31 feet. Interested persons should submit their views in writing to Mr. Randall Bryant, Administrator, Commissioners of Pilotage for the Port of Charleston, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329.

**Synopsis:**

Regulation 136-020(C)(1) would be amended by increasing the deep draft limitation from 28 feet to 31 feet enabling the pilots who hold the Initial Short Branch pilot license to handle vessels of the average tonnage and deep draft.



## 10 PROPOSED REGULATIONS

Document No. 2587  
**DEPARTMENT OF EDUCATION**  
CHAPTER 43

Statutory Authority: S. C. Code Ann. Sections 59-5-60 (1990), 59-18-110 (Supp. 1999), 59-29-10, *et seq.* (1990, Supp. 1999), 59-29-200 (1990), 59-33-30 (1990), and 59-53-1810 (1990)

R43-234. Defined Program, Grades 9–12

### **Preamble:**

The State Board of Education proposes amending R43-234, Defined Program, Grades 9–12. This regulation describes the curriculum for grades 9–12, diploma requirements, maximum class sizes, and reporting and time requirements. The proposed amendments reflect the elimination of the general track curriculum and the changes related to the repeal of the STAR diploma. The amendments also align R43-234 with the Education Accountability Act and R43-259 (Graduation Requirements), clarify the innovative course process and the requirements for awarding dual credit; and align appropriate teacher certification to the courses listed in Appendix A (List of Courses, Grades 9–12).

### Section-by-Section Discussion

- Section I: Addresses high school curriculum for grades nine through twelve.  
Section II: Addresses class size.  
Section III: Addresses graduation requirements for a state high school diploma.  
Section IV: Addresses follow-up report of graduates.  
Section V: Addresses the reporting of Tech Prep graduates.  
Section VI: Addresses student records.  
Section VII: Addresses emergency closings.  
Appendix A: List of Courses, Instructional Codes, and Appropriate Teacher Certification, Grades 9-12

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

Should a public hearing be requested pursuant to S. C. Code Ann. Section 1-23-110(A)(3) (Supp. 1999), as amended, such a hearing shall be held January 9, 2001, at 10:30 A.M., at the Rutledge Building. Written comments may be directed to Nancy Sargent, Director, Office of School Quality, 1429 Senate Street, Room 702, Columbia, South Carolina 29201. Comments must be received no later than 5:00 P.M. on December 27, 2000.

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

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

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

DESCRIPTION OF REGULATION: R43-234. Defined Program, Grades 9-12

Purpose: Regulation 43-234, Defined Program, Grades 9-12, is being amended in its entirety. This regulation delineates the curriculum for grades 9-12, diploma requirements, maximum class sizes, and reporting and time requirements.

Legal Authority: S. C. Code Ann. Sections 59-5-60 (1990), 59-18-110 (Supp. 1999), 59-29-10, *et seq.* (1990, Supp. 1999), 59-29-200 (1990), 59-33-30 (1990), and 59-53-1810 (1990)

Plans for Implementation: The proposed amendments will take effect upon approval by the General Assembly and publication in the *State Register*. The proposed amendments will be implemented by providing school district personnel with copies of the regulation.

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

The proposed amendments align with regulation 43-259, Graduation Requirements, which reflect the 2000 General Assembly repeal of section 59-39-105, STAR diploma. These amendments also align with the School-To-Work Act of 1994 in the elimination of the general track curriculum.

**Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: [www.lpitr.state.sc.us](http://www.lpitr.state.sc.us). If you do not have access to the Internet, the text may be obtained from the promulgating agency.

Document No. 2586  
**PUBLIC SERVICE COMMISSION**  
CHAPTER 103

Statutory Authority: S.C. Code Ann. Sections 58-3-140 (Supp. 1999) and 58-23-1010 (Supp. 1999)

**Preamble:**

The Public Service Commission proposes to amend 26 S.C. Code Ann. Regs. 103-102(22) (Supp. 1999) regarding the definition of a limousine. On August 24, 2000, the Public Service Commission issued Order Number 2000-696 (Docket Number 2000-434-T). In Order Number 2000-696, the Commission addressed the issue of whether the term "luxury vehicles" in the "limousine" definition in 26 S.C. Code Ann. Regs. 103-102 (22) (Supp. 1999) includes sport utility vehicles and town cars. In this Order, the Commission held that both sport utility vehicles and town cars fit within the definition of "luxury vehicles", which appears in the Commission definition of a "limousine". Additionally, the Commission instructed the Commission Staff to commence a rulemaking procedure to modify the definition of a "limousine" in 26 S.C. Code Ann. Regs. 103-102 (22) (Supp. 1999) in accordance with Commission Order Number 2000-696. A Notice of Drafting concerning the proposed amendment to the definition of a "limousine" was published in the *State Register* on October 27, 2000.

Section-by-Section Discussion

103-102 (22) The existing definition of a "limousine" is being amended to state limousines include town cars and sport utility vehicles.

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

A public hearing on the proposed amendment to the definition of a "limousine" will be held February 15, 2001, at 10:30 a.m. before the Commission in the Commission's Hearing Room at 101 Executive Center Drive, Saluda Building, Columbia, South Carolina.

Interested persons may submit written comments to Mr. Gary E. Walsh, Executive Director, Public Service Commission of South Carolina, P.O. Drawer 11649, Columbia, South Carolina 29211. To be considered, comments must be received no later than 4:45 p.m. on January 19, 2001, the close of the drafting comment period. Please refer to Docket Number 2000-500-T in written comments forwarded to the Commission.

**Preliminary Fiscal Impact Statement:**

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

## 12 PROPOSED REGULATIONS

### Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Definition of a Limousine

Purpose: 26 S.C. Code Ann. Regs. 103-102(22) (Supp. 1999) is being amended to state the definition of a limousine includes town cars and sport utility vehicles.

Legal Authority: The legal authority for the amendment of 26 S.C. Code Ann. Regs. 103-102(22) (Supp. 1999) is S.C. Code Ann. Sections 58-3-140 (Supp. 1999) and 58-23-1010 (Supp. 1999).

Plan for Implementation: The proposed amendments will take effect upon approval by the General Assembly and publication in the *State Register*. Administratively, the Commission's Transportation Department will send a notice of the amended definition of a "limousine" to all Class "C" Charter Certificate holders on file with the Commission.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: Under S.C. Code Ann. Section 56-3-5300 (Supp. 1999) a "charter limousine" regulated by the South Carolina Public Service Commission must acquire a special license plate from the Department of Public Safety upon submission of proof that the charter limousine is certified as a "Class C Charter Limousine" by the Commission. 26 S.C. Code Ann. Regs. 103-102(22) (Supp. 1999) currently defines a limousine as a passenger carrier utilizing luxury vehicles and/or vans equipped to carry up to fifteen (15) passengers. One of the reasons the Commission regulates the operation of motor vehicles used for the transportation of persons for compensation is to protect the public. It has come to the Commission's attention that sport utility vehicles and town cars are being used as limousines on a charter basis in various areas of South Carolina. Therefore, sport utility vehicles and town cars that are used as limousines on the public highways in South Carolina should be subject to the Commission's jurisdiction and applicable laws such as S.C. Code Ann. Section 56-3-5300 (Supp. 1999).

DETERMINATION OF COSTS AND BENEFITS: The amendment of 26 S.C. Code Ann. Regs. 103-102(22) (Supp. 1999) will help to ensure that sport utility vehicles and town cars that are used to carry up to fifteen passengers for compensation are properly regulated by the Commission and are complying with all applicable laws.

UNCERTAINTIES OF ESTIMATES: There are no uncertainties of estimates concerning this regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The amendment of 26 S.C. Code Ann. Regs. 103-102(22) (Supp. 1999) will not directly affect the environment and public health per se; however, this amendment will help protect the public by ensuring that sport utility vehicles and town cars that are utilized to carry up to fifteen (15) passengers for compensation are operated in accordance with the Commission's regulations and other relevant laws.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There will be no detrimental effect on the environment and public health of this State if this regulation is not implemented.

### Text:

103-102 (22). Limousine. A "Limousine" is a passenger carrier utilizing luxury vehicles and/or vans equipped to carry up to fifteen (15) passengers. A "Limousine" includes sport utility vehicles and town cars.

Filed: October 24, 2000, 1:10 pm

Document No. 2589  
**DEPARTMENT OF NATURAL RESOURCES**  
 CHAPTER 121  
 Statutory Authority: 1976 Code Section 49-23-10 et seq.

**Emergency Situation:**

This regulation is necessary so that the new provisions of the South Carolina Drought Response Act may be implemented. One new provision requires that the department, through regulation, establish specific numerical values for the indices that define each level of drought. Without implementing emergency regulations to do this, there would be no way to upgrade or downgrade the drought declaration status. These regulations set out new drought management areas which will allow for more effective drought management. The new areas are divided based on river basin and geopolitical boundaries instead of climate divisions and geopolitical boundaries.

**Text:**

- 121-11.1. Purpose.
- 121-11.2. Definitions.
- 121-11.3. Jurisdiction.
- 121-11.4. Drought Management Areas Established.
- 121-11.5. Drought Response Committee.
- 121-11.6. Responsibilities of the Drought Response Committee.
- 121-11.7. Drought Information Center.
- 121-11.8. Drought Alert Phases.
- 121-11.9. Notification of Drought.
- 121-11.10. Curtailment of Water Use During Droughts.
- 121-11.11. Mediation of Disputes by the South Carolina Department of Natural Resources
- 121-11.12. Development of Drought Response Plans and Ordinances.

121-11.1. Purpose.

Permanent regulations 121-11.1 to 121-11.13 are suspended for the duration of these emergency regulations.

121-11.2. Definitions.

A. "Drought response committee" means the committee composed of state and local representation with the purpose of coordinating drought response within drought management areas and making recommendations for action to the South Carolina Department of Natural Resources and/or the Governor. One drought response committee will be established in each drought management area.

B. A Minimum flow  $\cong$  means the monthly 5 percentile flow

C. A Trigger level  $\cong$  is defined as a water level decline equal to 150 ft. below the predevelopment level of an aquifer except for the Floridan aquifer system in which the trigger level is a decline of 75 ft below the predevelopment level or to mean sea-level, whichever is the least decline.

D. "Drought Emergency" exists as declared by the Governor when the safety, security, health or welfare of the State or any portion of the State is threatened.

## 14 EMERGENCY REGULATIONS

E. "Essential water use" means water used strictly for fire-fighting purposes, health and medical purposes, maintaining minimum streamflow requirements, and minimum water levels in the potable drinking water supplies and the above and below ground water tables, and the use of water to satisfy federal, state, or local public health and safety requirements is considered essential water use.

F. "Non-essential water use" means categories of water use, other than essential water use, which may be curtailed during severe or extreme drought.

G. A7Q10 Flow $\cong$  is defined as the lowest mean streamflow over seven consecutive days that can be expected to occur once in a ten year period. In any year, there is a 10 percent probability that the average flow for seven consecutive days will be equal to or less than the 7Q10.

### 121-11.3. Jurisdiction.

These regulations apply to every person using water in this State and to all water resources of the State, but does not authorize any restriction in use of water during an incipient, moderate, and severe drought declaration injected into aquifer storage and recovery facilities, water stored in managed watershed impoundments or water from any pond completely situated on private property and fed only by diffused surface water. During a drought declaration, the use of water from a managed watershed impoundment shall not be restricted as long as minimum streamflow or flow equal to the 7Q10 is maintained, whichever is less.

### 121-11.4. Drought Management Areas Established.

A. In order to respond to drought conditions, four drought management areas are established as follows:

(1) The West (Savannah) Drought Management Area shall include the following counties:

- (a) Oconee;
- (b) Pickens;
- (c) Anderson;
- (d) Abbeville;
- (e) McCormick;
- (f) Edgefield;
- (g) Aiken;
- (h) Barnwell;
- (i) Allendale;
- (j) Hampton;
- (k) Jasper;
- (l) Beaufort.

(2) The Central (Santee) Drought Management Area shall include the following counties:

- (a) Greenville;
- (b) Spartanburg;
- (c) Cherokee;
- (d) York;
- (e) Laurens;
- (f) Union;
- (g) Chester;
- (h) Greenwood;
- (i) Newberry;
- (j) Fairfield;
- (k) Saluda;
- (l) Lexington;
- (m) Richland;
- (n) Sumter;

- (o) Calhoun;
- (p) Clarendon;
- (q) Williamsburg;
- (r) Georgetown.

(3) The Northeast (Pee Dee) Drought Management Area shall include the following counties:

- (a) Chesterfield;
- (b) Marlboro;
- (c) Darlington;
- (d) Florence;
- (e) Dillon;
- (f) Marion;
- (g) Horry;
- (h) Lancaster;
- (i) Kershaw;
- (j) Lee;

(4) The Southern (ACE) Drought Management Area shall include the following counties:

- (a) Orangeburg;
- (b) Bamberg;
- (c) Colleton;
- (d) Dorchester;
- (e) Charleston;
- (f) Berkeley.

B. Establishment of drought management areas by the department in no way limits the department's or the Drought Response Committee's authority to act in an area smaller than a drought management area, such as a county or watershed. In order to prevent overly broad response to drought conditions, drought response measures shall be considered within individual drought management areas, as applicable. Insofar as practicable, within an individual drought management area, drought response measures shall be considered and administered in individual counties.

#### 121-11.5. Drought Response Committee.

A. The Drought Response Committee shall consist of state representation and local representation for each drought management area as specified in R.121-11.4.

(1) A representative of each of the following State agencies shall represent State interests:

- (a) South Carolina Department of Natural Resources;
- (b) South Carolina Emergency Preparedness Division of the Office of the Adjutant General;
- (c) South Carolina Department of Health and Environmental Control;
- (d) South Carolina Department of Agriculture;
- (e) South Carolina Forestry Commission;

(2) Local representatives for each drought management area as specified in R.121-11.4 shall be appointed by the Governor with the advice and consent of the Senate to represent the following interests:

- (a) Counties;
- (b) Municipalities;
- (c) Public service districts;
- (d) Private water suppliers
- (e) Agriculture;
- (f) Industry;
- (g) Domestic users;

## 16 EMERGENCY REGULATIONS

- (h) Regional councils of governments;
- (i) Commissions of public works;
- (j) Power generation facilities;
- (k) Special purpose districts;
- (l) Soil and Water Conservation Districts.

There may not be more than two members on a local committee from each county within the drought management area.

The statewide committee shall coordinate planning and response only upon consultation with the appropriate local committee in the impacted drought management area during moderate, severe and extreme drought declarations. The Governor shall appoint the chair of the Drought Response Committee. The department shall provide administrative support.

(3) The Governor may appoint additional members as necessary to insure broad based input on the committee and may make interim appointments when the General Assembly is not in session. The statewide committee shall coordinate planning and response only upon consultation with the appropriate local committee in the impacted drought management area during moderate, severe and extreme drought declarations.

(4) Individual members of the Drought Response Committee representing local interests shall serve a term of four (4) years and may be reappointed. Appointments will commence and end as of March 1; however, the appointment will continue after March 1 until a successor is appointed. For additional Drought Response Committee members over and above those identified in Subsection (2) above, the appointment may continue after March 1 until a successor is appointed or notice is given that the additional position will not be reappointed.

B. The Governor shall appoint the chair of the Drought Response Committee. The department shall provide administrative support.

C. The Drought Response Committee for individual drought management areas shall convene upon notice by the South Carolina Department of Natural Resources or at the request of five committee members. A majority of the members is needed for a quorum. Decisions will be made by the majority of members present at the meeting, and voting on any matter before the committee shall be by committee members in person only, not by proxy.

### 121-11.6. Responsibilities of the Drought Response Committee.

A. Members of the Drought Response Committee shall be notified at the onset of each Drought Alert Phase and provided information by the South Carolina Department of Natural Resources with respect to the Drought Alert Phase in each Drought Management Area as applicable. Notification to Committee members of the onset of each Drought Alert Phase shall be as provided in R.121-11.8 and R. 121-11.9. Following the notice of each Drought Alert Phase, the Drought Response Committee may be convened as provided in R.121-11.5.

B. The Drought Response Committee shall evaluate drought conditions within drought management areas to determine if a need exists for action beyond the scope of local government. The committee shall consider:

- (1) Effectiveness of local drought ordinances and plans in protecting and insuring adequate water supplies;
- (2) Regional impacts of water use on water sources and other water users;
- (3) Short term and extended climatological forecasts;
- (4) Other relevant information.

C. Upon determination that action in addition to local measures is necessary to insure adequate supplies of water in drought management areas, the Drought Response Committee shall prepare recommendations to reduce or alleviate drought impacts and submit the recommendations to the South Carolina Department of Natural Resources for implementation. If the recommendations involve the curtailment of

water use, the committee shall determine which categories of non-essential water use must be curtailed in accordance with R.121-11.10.

D. The Drought Response Committee shall consult with and invite participation by representatives of municipalities, counties, Commissions of public works, public and private water suppliers, public service districts, power generation facilities, industries, special purpose districts and any other water users in the affected drought management area while evaluating drought conditions and in the preparing of recommended actions.

E. Should the drought situation continue to deteriorate to the point that the safety, security, health, or welfare of a drought management area is seriously threatened or impacted, the Drought Response Committee shall immediately notify the Governor and provide a priority list of recommended actions to the Governor.

#### 121-11.7. Drought Information Center.

A. The Office of the State Climatologist, South Carolina Department of Natural Resources, shall maintain a Drought Information Center whenever one or more drought management areas of the State are in a moderate, severe or extreme drought alert phase. Information about the status of drought conditions and impacts on the economy and well-being of the State will be collected and made available to State Agencies, State Officials, the news media, and other concerned interests.

B. The Drought Information Center shall routinely collect, monitor, and evaluate selected climatic, water-supply and water-use data as necessary to identify at an early stage the onset of a drought or potential for drought, geographic extent of the affected area and changes in the drought levels.

C. Drought indices shall be computed on a weekly basis. These computations will be compared with the various similar indices computed by other State, Federal and private agencies.

D. Monitoring shall be accelerated whenever drought conditions approach or enter the moderate drought stage in one or more drought management areas. This may include acquiring additional rainfall, stream flow, water use, and ground water level data; and collecting additional information on the impact of the drought on agriculture, industry, domestic water supplies, and other users.

E. During periods of moderate, severe or extreme drought, available drought related data, as appropriate, will be provided to the Drought Information Center by the South Carolina Department of Agriculture, South Carolina Emergency Preparedness Division, South Carolina Forestry Commission, South Carolina Department of Health and Environmental Control, as well as by any other State Agency that is either impacted by or has information on drought conditions. Various Federal and local agencies may be asked to provide drought information on a voluntary basis.

#### 121-11.8. Drought Alert Phases.

A. Four phases of drought alert are established herein, each identified by drought indices. Drought stage evaluation as indicated by quantified indices includes, but is not limited to:

(1) Incipient drought alert phase

(a) Palmer Drought Index of -0.50 to -1.49;

Crop Moisture Index of 0.00 to -1.49

Standard Precipitation Index of 0.00 to -1.49

Keetch Byram Drought Index of 300 to 399

U.S. Drought Monitor of D0



## 18 EMERGENCY REGULATIONS

Average daily streamflow is 111%-120% of the minimum flow for two consecutive weeks  
Static water level in an aquifer is between 11 feet and 20 feet above trigger level for two consecutive months.

(b) The incipient drought may be declared if any of the indices indicate an incipient drought, however, indication by one index alone does not mandate a declaration. The incipient drought phase shall initiate inhouse mobilization by department personnel and the Drought Response Committee. The department shall routinely monitor the climatic variables, streamflow, and water levels in potable drinking water supplies and water levels in the above and below ground water tables and lakes, and shall notify the Drought Response Committee and relevant federal, state, and local agencies that a portion of the State is experiencing an incipient drought condition.

### (2) Moderate drought alert phase

(a) Palmer Drought Index of -1.50 to -2.99;

Crop Moisture Index of -1.50 to -2.99

Standard Precipitation Index of -1.50 to -2.99

Keetch Byram Drought Index of 400 to 499

U.S. Drought Monitor of D1

Average daily streamflow is 101%-110% of the minimum flow for two consecutive weeks

Static water level in an aquifer is between 1 feet and 10 feet above trigger level for two consecutive months.

(b) A moderate drought may be declared if any of the indices indicate a moderate drought, however, indication by one index alone does not mandate a declaration. During a moderate drought, statements must be released to the news media by the department, and appropriate agencies must accelerate monitoring activities.

### (3) Severe drought alert phase

(a) Palmer Drought Index of -3.00 to -3.99;

Crop Moisture Index of -3.00 to -3.99

Standard Precipitation Index of -3.00 to -3.99

Keetch Byram Drought Index of 500 to 699

U.S. Drought Monitor of D2

Average daily streamflow is between the minimum flow and 90% of the minimum for two consecutive weeks

Static water level in an aquifer is between the trigger level and 10 feet below for two consecutive months.

(b) This phase must be verified utilizing data, forecasts, and outlooks from various agencies. Indication by one index alone does not mandate a declaration. A drought of this severity may require water withdrawal and water use restrictions.

### (4) Extreme drought alert phase

(a) Palmer Drought Index of -4.00 and below.

Crop Moisture Index reaches or falls below -4.00

Standard Precipitation Index reaches or falls below -4.00

Keetch Byram Drought Index reaches or exceeds 700

U.S. Drought Monitor of D3 or higher

Average daily streamflow is less than 90% of the minimum for two consecutive weeks

Static water level in an aquifer is more than 10 feet below the trigger level for two consecutive months.

(b) The department shall continue to evaluate information from various sources. Indication by one index alone does not mandate a declaration. Upon confirmation of an Extreme Drought Alert Phase, the Drought Response Committee may recommend that the Governor issue a public statement that an extreme drought situation exists and that appropriate water-use and withdrawal restrictions be imposed.

B. The need for the declaration of drought alert phases will be verified by other means, including, but not limited to other indices; water supply and demand; stream flow data; rainfall records; agricultural and forestry conditions; and general historical climatological data.

## 121-11.9. Notification of Drought.

A. Upon the inception of a drought alert phase, the South Carolina Department of Natural Resources will disseminate public information concerning all aspects of the drought. The initial action in responding to drought is public education, providing information as to existing and potential conditions and water conservation measures necessary to meet the demand for water at each drought alert phase.

B. The South Carolina Department of Natural Resources shall provide the following notice of Drought Alert Phases.

(1) The South Carolina Department of Natural Resources shall notify the Drought Response Committee at the beginning of an incipient drought alert phase and each upgrading of the drought alert to a higher phase. Such notice shall be by first class mail.

(2) The South Carolina Department of Natural Resources shall notify by first class mail public water systems in the affected Drought Management Areas and other appropriate agencies and individuals at the inception of a moderate drought alert phase and each upgrading of the drought alert to a higher phase.

(3) The South Carolina Department of Natural Resources shall publish notice at least once in a newspaper of general circulation in the areas affected at the inception of a Moderate Drought Alert Phase and each upgrading of the drought alert to a higher phase.

(4) The South Carolina Department of Natural Resources will take any other action appropriate to announce a drought alert.

## 121-11.10. Curtailment of Water Use During Droughts.

A. During severe or extreme drought conditions, the South Carolina Department of Natural Resources may require mandatory reduction or curtailment of non-essential water use in affected drought management areas if recommended by the Drought Response Committee in accordance with R.121-11.6. The curtailment of water use may involve adjusting the quantity of water used; adjusting the quality of water to meet the water use; adjusting the time of water use; and/or utilizing different sources of water.

B. The Drought Response Committee shall determine which categories of non-essential water use must be reduced or curtailed after reviewing each category of water use in C. Below by the following standards:

- (1) Purpose of the use;
- (2) Suitability of the use to the watercourse, lake, or aquifer;
- (3) Economic value of the use;
- (4) Social value of the use;
- (5) Extent and amount of the harm it causes;
- (6) Practicality of avoiding the harm by adjusting the use or method of use of one person or the other;
- (7) Practicality of adjusting the quantity of water used by each person;
- (8) Protection of existing values of water uses, land, investments, and enterprises;
- (9) Consumptive or non-consumptive nature of the use;
- (10) Impacts on essential water uses.

C. Non-essential water uses shall be evaluated in accordance with the following categories:

- (1) Agricultural use;
  - (a) Irrigation;
- (2) Commercial use;
  - (a) Commercial domestic use;
  - (b) Commercial process use;

## 20 EMERGENCY REGULATIONS

- (3) Domestic use;
  - (a) Inside use;
  - (b) Outside use;
- (4) Electric Power Generation;
- (5) Industrial use;
  - (a) Industrial domestic use;
  - (b) Once through cooling;
  - (c) Industrial process use;
- (6) Institutional
- (7) Recreational.

D. Following determination of non-essential water use, by the Drought Response Committee, the South Carolina Department of Natural Resources shall issue a declaration specifying the drought management areas affected and identifying the categories of non-essential water use to be reduced or curtailed. The declaration shall be sent to water systems, widely distributed to the news media, and published at least once a week in a newspaper of general circulation in each county affected.

E. Any person adversely affected by mandatory curtailment may, within ten days after such curtailment becomes effective, submit appropriate information to the South Carolina Department of Natural Resources and seek a variance from the curtailment. The following procedures shall apply to request for a variance from the water curtailment declaration:

- (1) The request for variance shall include a detailed statement as to how the curtailment declaration adversely affects the person making the request;
- (2) The request for variance shall provide information relevant to the water use in response to each of the standards in B.(1), (2), (3), (4), (5), (6), (7), (8), (9), and (10);
- (3) Either the South Carolina Department of Natural Resources staff or the person requesting the variance may request a meeting to discuss any matter relevant to the request or to seek additional information. Such meeting shall be conducted as expeditiously as practicable;
- (4) Upon receipt of all relevant information (specified in E. (1), (2), and (3) above) from the person requesting the variance, the South Carolina Department of Natural Resources staff shall issue a determination for the request for a variance. Such determination shall be made within five days of receipt of all relevant information from the person requesting the variance or within twenty days of the declaration of the curtailment, whichever comes first.

F. Persons not capable of immediate water use reduction or curtailment because of equipment damage or other extreme circumstances shall commence gradual reduction within twenty-four hours of the declaration of curtailment and shall notify the South Carolina Department of Natural Resources of their proposed reduction schedule by certified mail within three working days of the declaration of curtailment. A variance will be required for the gradual or reduced reduction and a request for a variance must be submitted to the South Carolina Department of Natural Resources as specified in E. above within ten days after such curtailment becomes effective.

G. Any declaration of curtailment shall continue in effect only as long as conditions in any drought management area require it. The declaration shall be terminated by action of either the Drought Response Committee or the South Carolina Department of Natural Resources, and notice of termination of the declaration shall be given as when originally issued.

H. In the event that a declaration issued pursuant to this regulation conflicts with any ordinance or plan adopted pursuant to R.121-11.12, the declaration shall supersede any ordinance or plan.

I. These regulations do not restrict or in any way affect the authority of the commissioner of the Department of Health and Environmental Control with respect to emergency declarations made in the interest of public health.

121-11.11. Mediation of Disputes by the South Carolina Department of Natural Resources.

A. During any drought alert phase, the South Carolina Department of Natural Resources shall offer its services to mediate any dispute arising from competing demands for water. The mediation may be undertaken only upon the request of the parties involved and may not be binding.

B. The Chairman of the South Carolina Department of Natural Resources shall appoint a three person board to mediate each dispute. The board shall meet as necessary to mediate the dispute at a location deemed most appropriate by the board for all persons involved.

C. A written request shall be submitted from each aggrieved person to the South Carolina Department of Natural Resources. The requests will contain the following minimum information:

- (1) Statement of the cause for mediation;
- (2) Results sought by each person;
- (3) Historical water use by each person;
- (4) Description of water sources;
- (5) Map of general area showing water sources, water transfers, water use points, and water discharge, as appropriate.
- (6) Additional material deemed relative to the dispute by each person.

D. The South Carolina Department of Natural Resources as appropriate may conduct investigations to resolve the dispute.

E. A decision shall be made by the board within ten days of receipt of all necessary information.

F. A permanent record of each mediation process shall be maintained by the South Carolina Department of Natural Resources, and a summary of the request, findings, and conclusions of mediation shall be reported by the board to the South Carolina Department of Natural Resources and incorporated into the minutes of the South Carolina Department of Natural Resources. The South Carolina Department of Natural Resources will entertain requests for confidentiality if sufficient reasons exist to withhold information under the Freedom of Information Act.

G. A party affected by a declaration of the Drought Response Committee has the right to appeal that action to the Administrative Law Judge Division. The appeal must be filed within five days of the declaration. The filing of an appeal operates as an immediate stay of the declaration of the Drought Response Committee as it affects the appellant. A review of the immediate stay must be heard by the Administrative Law Judge Division within five days of the filing of the notice of appeal with the Administrative Law Judge Division. All issues under appeal must be heard as a contested case pursuant to the provisions of the Administrative Procedures Act and the rules of the Administrative Law Judge Division.

H. Any mediation shall not stop or preclude the South Carolina Department of Natural Resources and the Drought Response Committee from taking any other action authorized by the South Carolina Drought Response Act.

121-11.12. Development of Drought Response Plans and Ordinances.

A. The South Carolina Department of Natural Resources, in cooperation with the South Carolina Department of Health and Environmental Control, shall prepare and distribute a model drought response ordinance or ordinances within six months of approval by the General Assembly of these regulations. The model ordinance will be distributed to all entities which must develop ordinances and plans in accordance with B. below.

B. Municipalities, counties, public service districts, and commissions of public works engaged in the business or activity of supplying water for any purpose shall develop and implement local

## 22 EMERGENCY REGULATIONS

drought response ordinances, or local drought response plans when authority to enact ordinances does not exist.

(1) In so far as possible and practical, local governments will be responsible for alleviating the impacts of drought (See R.121-11.6B). Cooperation among adjacent water suppliers is encouraged to develop alternate water supply sources and back-up systems and to develop compatible plans and ordinances.

(2) Local drought response ordinances and plans shall be consistent with these regulations and shall contain at a minimum the following information:

(a) A description of alternate supply sources, including time, costs, and problems associated with putting alternate sources on-line.

(b) A water use reduction plan and schedule for moderate, severe, and extreme drought for each category, as appropriate, in R.121-11.10.

(c) An implementation plan and ordinance, as appropriate.

(3) Proposed ordinances and plans must be submitted to the South Carolina Department of Natural Resources for consistency review within twelve months of the effective date of these regulations.

(4) Proposed local drought response ordinances and plans must be adopted within eighteen months of the effective date of these regulations.

(5) Water suppliers as specified in B. above, commencing the business or activity of supplying water, after the effective date of these regulations, shall submit a local drought response ordinance or plan to the South Carolina Department of Natural Resources within six months of the commencement of the business or activity and shall adopt the ordinance or plan within twelve months of the commencement of the business or activity.

Document No. 2539  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
 CHAPTER 61  
 Statutory Authority: 1976 Code Section 48-1-10 et seq.

**R.61-87, Underground Injection Control Regulations**

**Synopsis:**

The United States Environmental Protection Agency revised 40 CFR Parts 9, 144, 145 and 146 of the Underground Injection Control Regulations on December 7, 1999 (64 FR 68546). The rule bans motor vehicle waste disposal wells in groundwater protection areas and other sensitive groundwater areas; bans new motor vehicle waste disposal wells and new and existing large capacity cesspools; and adds new or revised definitions to the regulation. The Department has adopted the federal revisions for incorporation into R.61-87. Adoption brings the State Underground Injection Control Regulations into compliance with the federal regulations and will allow the State to maintain its primacy status. See Discussion of Revisions below and Statement of Need and Reasonableness herein.

Discussion of Revisions

<u>Section</u>	<u>Change</u>
61-87.2	Added new definitions for terms: "Cesspool," "Drywell," "Improved sinkhole," and "Point of injection for Class V wells", "Septic System," and "Subsurface fluid distribution system," Modified existing definitions used in the revised parts: "Waste" and "Well."
61-87.3	Revised the scope to clearly define when these regulations apply.
61-87.11.A.(1)(c)	New subitem added to include generators, owners, or operators of hazardous waste management facilities to this class of injection well.
61-87.11.B(2)	Revised the name of the agency overseeing petroleum exploration from the South Carolina Water Resource Commission to the Department. Clarified Apermit≡ to Amining permit≡.
61-87.11.C(2)	Revised the name of the agency overseeing mineral exploration from the South Carolina Land Resource Commission to the Department.
61-87.11.D.2 & added a & b.	Revised definition of Class IV injection wells to allow contaminated groundwater remediation systems treating groundwater at CERCLA and RCRA sites, approved by the EPA or the department, to inject the treated groundwater back into the same aquifer from which it was drawn.
61-87.11.E(1)(I) & added j.	Revised definition of Class V.A. wells to include septic systems used to inject waste or effluent from multiple dwellings, business establishments, communities, or regional businesses.
61-87.11.E(1)k	Added to revise definition of Class V.A. wells to include large capacity cesspools.
61-87.11.E(1)(l)	Added to revise definition of Class V.A. wells to include motor vehicle waste disposal wells.

## 24 FINAL REGULATIONS

- 61-87.11.E(3)  
& (3)(a) Added to prohibit the use of large capacity cesspools.
- 61-87.11.E(3)(b) Added to prohibit the use of motor vehicle waste disposal wells.
- 61-87.11.F(4) Added to prohibit the use of Class V.B. wells that have not complied with the inventory requirements.
- 61-87.12.B. Revised introductory paragraph by adding Class IV(2)(a) to the well types, and added to exclude Class IV remediation wells at RCRA and CERCLA facilities and added to prohibit Class V.A (j), (k), (l) wells.
- 61-87.13. Added Class IV(2)(a) to the well types
- 61-87.13.A. Added Class IV(2)(a) to the well types
- 61-87.13.G(12) Added Class IV(2)(a) to the well types
- 61-87.13.W. Added Class IV(2)(a) to the well types
- 61-87.14. Added Class IV(2)(a) to the well types
- 61-87.14.G. Added Class IV(2)(a) to the well types
- 61-87.14.I. Added Class IV(2)(a) to the well types

**Instructions:** Amend R.61-87 pursuant to each individual instruction provided below with the text of the amendments.

### **Text of Proposed Amendments:**

#### **At 61-87.2, Definitions, add new definitions in alpha-numeric order:**

**ACesspool**≡ means a drywell that receives untreated sanitary waste containing human excreta, and which sometimes has an open bottom and/or perforated sides.

**ADrywell**≡ means a well, other than an improved sinkhole or subsidence fluid distribution system, completed above the water table so that its bottom and sides are typically dry except when receiving fluids.

**AImproved sinkhole**≡ means a naturally occurring karst depression or other natural crevice found in volcanic terrain and other geological settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface.

**APoint of injection for Class V wells**≡ means the last accessible point prior to waste fluids being released into the subsurface environment through a Class V well.

**ASeptic system**≡ means a well that is used to emplace sanitary wastes below the surface and is typically comprised of a septic tank and subsurface fluid distribution system. The UIC requirements do not apply to single family residential septic systems nor to non residential septic systems which are used solely for disposal of sanitary waste and have the capacity to serve fewer than 20 persons a day.

ASubsurface fluid distribution system≡ means an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground.

AWell injection≡ means the subsurface emplacement of fluids through a well.

**At 61-87.B, Definitions, replace the definition of "Sewage" with "Sanitary waste" to read:**

"Sanitary waste≡ means liquid or solid wastes originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparations, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned. Sources of the wastes may include single or multiple residences, hotels and motels, restaurants, bunkhouses, schools, ranger stations, crew quarters, guard stations, campgrounds, picnic grounds, day-use recreation areas, other commercial facilities, and industrial facilities provided the waster is not mixed with industrial wastes.

**At 61-87.B, Definitions, replace the definition of "Well" to read:**

AWell≡ means any excavation which is cored, bored, drilled, jetted, dug, or otherwise constructed the depth of which is greater than its largest surface dimension; or, a dug hole whose depth is greater than the largest surface dimension; or, an improved sinkhole; or, a subsurface fluid distribution system.

**Replace 61-87.3 to read:**

61-87.3. Scope.

These regulations apply to all persons owning, using, or proposing to use any well for injection, but does not include any dug hole, or well which is not used for emplacement of fluids. Minimum standards for construction and abandonment of injection wells are as those stated for all wells in the SC Well Standards and Regulations (R.61-71).

**Add 61-87.11.A(1)(c) to read:**

(c) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to inject hazardous waste;

**Replace 61-87.11.B(2) to read:**

(2) No person shall construct, use, or operate a well of this Class for injection except as authorized by a permit issued by the Department. A mining permit issued by the Department may be necessary before petroleum exploration and/or production is initiated.

**Replace 61-87.11.C(2) to read:**

(2) No person shall construct, use, or operate a well of this Class for injection except as authorized by a permit issued by the Department. A mining permit issued by the Department may be necessary before mineral extraction is initiated.

**Replace 61-87.11.D(2) introductory sentence and add new subitems (a) and (b) to read:**

(2) No person shall construct, use or operate a well of this class for injection:

(a) Except owners or operators of contaminated ground water remedial systems treating groundwater to be injected into the same formation from which it was drawn are authorized by rule for the life of the well if subsurface emplacement of fluids is approved by EPA, or the Department, pursuant to provisions for cleanup of releases under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980



## 26 FINAL REGULATIONS

(CERCLA), 42 U.S.C. 9601-9675, or pursuant to requirements and provisions under the Resource and Conservation Act (RCRA), 42 U.S.C. 6901-6992k;

(b) In violation of R61-87.5.

### **Replace 61-87.11.E(1)(I) to read:**

(I) Corrective action wells used to inject groundwater associated with aquifer remediation;

### **Add 61-87.11.E(1)(j), (k) and (l) to read:**

(j) Septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community, or regional business establishment septic tank;

(k) Large capacity cesspools including multiple dwelling, community or regional cesspools, or other devices that receive sanitary wastes which have an open bottom and sometimes perforated sides. The UIC requirements do not apply to single family residential cesspools nor to non residential cesspools which receive sanitary waste and have the capacity to serve fewer than 20 persons a day;

(l) Motor vehicle waste disposal wells that receive or have received fluids from vehicular repair or maintenance activities.

### **Add 61-87.11.E(3), (3)(a) and (b) to read:**

(3) No person shall construct, use or operate:

(a) Large capacity cesspools including multiple dwelling, community or regional cesspools, or other devices that receive sanitary wastes which have an open bottom and sometimes perforated sides. The UIC requirements do not apply to single family residential cesspools nor to non residential cesspools which receive sanitary waste and have the capacity to serve fewer than 20 persons a day;

(b) Motor vehicle waste disposal wells that receive or have received fluids from vehicular repair or maintenance activities.

### **Add 61-87.11.F(4) to read:**

(4) Failure to submit information to the Department regarding R.61-78(f)(3) will result in the prohibition from injecting until the reporting requirements are satisfied.

### **Replace 61-87.12.B introductory paragraph only; remaining subitems 61-87.12.B(1), (2) & (3) remain the same:**

B. Any Class II, III, IV(2)(a) or V.A. injection well constructed or in operation prior to the effective date of these regulations shall be permitted in accordance with R.61-87.13 or abandoned by the owner in a manner specified by the Department. Any Class I, Class IV (other than specified above), V.A.-(j), (k), (l) injection well constructed or in operation prior to the effective date of these regulations will be abandoned by the owner in a manner specified by the Department. As part of abandonment, the Department may require the owner to:

### **Replace 61-87.13 introductory sentence to read:**

61-87.13. Permitting Requirements for Class II, III, IV(2)(a), and V. A. Wells.

### **Add 61-87.13.A to read:**

A. A permit shall be obtained from the Department prior to constructing, operating, or using any Class II, III, IV(2)(a) or V. A. well for injection.

**Add 61-87.13.G(2)**

(2) Class IV(2)(a) and Class V. A. Wells;

**Add 61-87.13.W to read:**

W. A permit shall be issued for a period not to exceed ten years from the date of issuance for a Class IV(2)(a) and Class V. A. wells. On expiration of the permit, the permit shall become invalid unless a complete application is made, prior to the expiration date, for a renewal of the subject permit. For Class II and III wells the permit shall be issued for a period up to the operating life of the facility. The Department shall review each issued Class II or III U.I.C. permit at least once every five years to determine whether it should be modified, revoked and reissued, or terminated.

**Replace 61-87.14 introductory sentence to read:**

61-87.14. Criteria and Standards for Class II, III, IV(2)(a) and V.A. Wells.

**Add 61-87.14.G to read; remaining subsections 61-87.14.G(1) through 61-87.14.I(3) remain the same:**

G. Monitoring Requirements for Class III, IV(2)(a) and V.A. Wells.

**Statement of Need and Reasonableness:**

The statement of need and reasonableness was determined based on staff analysis pursuant to S.C. Code Section 48-1-10 et. seq:

DESCRIPTION OF REGULATION: R.61-87. Underground Injection Control Regulations

Purpose: R.61-87 has been amended in accordance with changes to Federal Regulation 40 CFR Parts 9, 144, 145, and 146.

Legal Authority: Pollution Control Act, S.C. Code Ann. 48-1-10 *et seq.*, and required by Section 1421 of the Safe Drinking Water Act, 42 U.S.C. Section 300h.

Plan for Implementation: Existing staff of the Bureau of Water will implement these changes. The additional requirements are expected to add no additional man days of effort. Impact on other program areas will be slight.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION AND EXPECTED BENEFIT: This regulatory amendment is exempt from requirements of a Preliminary Fiscal Impact Statement and Preliminary Assessment Report because each change is necessary to maintain compatibility with Federal regulations. In amending the federal regulations, the U.S. Environmental Protection Agency found the following:

This amendment brings the State underground injection control regulations into compliance with the Federal regulations. Adoption of the federal regulations will allow the State to maintain the underground injection control program=s primacy status.

DETERMINATION OF COSTS AND BENEFITS: In amending the Federal regulation, the U.S. Environmental Protection Agency found the following: Amending the regulation will prohibit two categories of Class V wells and ensure protection of underground sources of drinking water. It bans new and existing motor vehicle waste disposal wells and cesspools.

UNCERTAINTIES OF ESTIMATES: The Department does not have sufficient information to enable it to estimate the number of potentially effected Class V injection wells.

## 28 FINAL REGULATIONS

EFFECTS ON ENVIRONMENT AND PUBLIC HEALTH: It is necessary to update existing regulations as changes occur at the federal level in order to maintain compatibility with the federal government. This will help protect the State's underground sources of drinking water from injection of contaminants.

DETRIMENTAL EFFECTS ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: If not implemented, possible duplicative or redundant requirements with existing federal regulations will not be eliminated.

Document No. 2588  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
CHAPTER 71  
Statutory Authority: 1976 Code Section 41-15-210  
Article I, Subarticle 6  
Occupational Safety and Health Standards

The South Carolina Department of Labor, Licensing and Regulation, Division of Labor, Office of Occupational Safety and Health, hereby promulgates the following changes to South Carolina Regulations:

In Subarticle 6 (General Industry & Marine Terminals):

Minimum standard for Subarticle 6, paragraph F, shall be revisions to 1917.1-3, 1917.23, 1917.25-27, 1917.30, 1917.42-45, 1917.50, 1917.71, 1917.73, 1917.92, 1917.95, 1917.112, 1917.117-122, 1917.124, 1917.151-153, and 1917.156, as amended in FEDERAL REGISTER, Volume 65, Number 127, pages 40937-40943, dated June 30, 2000.

Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the Office of Public Information at (803) 896-4380.