

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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

SOUTH CAROLINA STATE REGISTER

PUBLISHED BY
THE LEGISLATIVE COUNCIL
of the
GENERAL ASSEMBLY

STEPHEN T. DRAFFIN, DIRECTOR
DEIRDRE BREVARD-SMITH, EDITOR

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

Published September 23, 2011

Volume 35 Issue No. 9

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.

2011 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	3/11	4/8	5/13	6/10	7/8	8/12	9/9	10/14	11/11	12/9
Publishing Date	1/28	2/25	3/25	4/22	5/27	6/24	7/22	8/26	9/23	10/28	11/25	12/23

REPRODUCING OFFICIAL DOCUMENTS

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

PUBLIC INSPECTION OF DOCUMENTS

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

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

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

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

EMERGENCY REGULATIONS

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

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

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

EFFECTIVE DATE OF REGULATIONS

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

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

SUBSCRIPTIONS

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

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

South Carolina State Register Subscription Order Form

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

Mail this form to:
South Carolina State Register
Deirdre Brevard-Smith, Editor
P.O. Box 11489
Columbia, SC 29211
Telephone: (803) 212-4500
Fax: (803) 212-4501

TABLE OF CONTENTS

REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

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

EXECUTIVE ORDERS

Executive Order No. 2011-16	Activating the Guard to Assist N.C. for Hurricane Irene	3
Executive Order No. 2011-17	Waiving Size and Weight Restrictions on Truck for Hurricane Irene Relief.....	3
Executive Order No. 2011-18	Placing S.C. National Guard on State Duty in Support of Vermont	4

NOTICES

BUILDING CODES COUNCIL

Adoption of Codes (International and National).....	5
---	---

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF

Certification of Need	5
Notice of Final Amendment to Air Quality State Implementation Plan - 2008 National Ambient Air Quality Standards (NAAQS) for Lead	8

LABOR, LICENSING AND REGULATION, DEPARTMENT OF

Occupational Safety and Health, Office of

Hearing for Adoption of OSHA Standards	9
--	---

Errata

Fire Marshal, Office of State

National Fire Protection Association 58, Liquefied Petroleum Gas Code, 2011 Edition	10
---	----

DRAFTING NOTICES

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF

Public Swimming Pools	11
-----------------------------	----

REVENUE, DEPARTMENT OF

Application of the Sales and Use Tax to Communication Services	11
--	----

PROPOSED REGULATIONS

EDUCATION, STATE BOARD OF

Document No. 4198	Accreditation Criteria.....	13
Document No. 4199	Adult Education Program.....	15
Document No. 4200	End-of-Course Tests.....	18
Document No. 4201	Gifted and Talented.....	20
Document No. 4202	Special Education, Education of Students with Disabilities	23

TABLE OF CONTENTS

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF
Document No. 4197 Access to Restricted Information..... 25

EMERGENCY REGULATIONS

NATURAL RESOURCES, DEPARTMENT OF
Document No. 4195 Dove Seasons and Dove Management Areas 29
Document No. 4196 Seasons, Limits, Methods of Take and Special Use Restrictions on
Wildlife Management Areas 34
Document No. 4194 Seasons, Limits, Methods of Take and Special Use Restrictions on
Wildlife Management Areas; Hunt Units 43

FINAL REGULATIONS

EDUCATION, STATE BOARD OF
Document No. 4190 Criteria for Entry into Programs of Special Education for Students
with Disabilities 46

REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

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

DOC. NO.	RAT. NO.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY
4163			Board of Landscape Architectural Examiners	1/19/12	Board of Landscape Architectural Exam
4161			Water Classifications and Standards	1/24/12	Department of Health and Envir Control
4162			Applications for Certification; Renewal of License and Permit, Continuing Education; and Operator-in-Training Licenses	1/26/12	Environmental Certification Board
4174			Hazardous Waste Management Regulations	2/21/12	Department of Health and Envir Control
4175			Hazardous Waste Management Planning	2/21/12	Department of Health and Envir Control
4176			Capital Expenditure Reviews Under Section 1122, Social Security Act	2/21/12	Department of Health and Envir Control
4180			Minimum Standards for Licensing Chiropractic Facilities	2/21/12	Department of Health and Envir Control
4182			Licensure for the Savannah River	3/19/12	Commissioners of Pilotage
4179			Electronic Equipment Collection and Recovery	3/24/12	Department of Health and Envir Control
4181			Certification of Need for Health Facilities and Services	5/07/12	Department of Health and Envir Control
4186			Soil Classifiers	5/09/12	LLR - Soil Classifiers Advisory Council
Committee Request Assessment Report					
4132			Environmental Protection Fees (Radioactive Material Licenses Fees)	Tolled	Department of Health and Envir Control
4139			Environmental Protection Fees (Drinking Water Fees)	Tolled	Department of Health and Envir Control
Committee Request Withdrawal					
4168			Perpetual Care Cemetery Board	Tolled	SC Perpetual Care Cemetery Board
4164			Child Labor	Tolled	Division of Labor
4183			International Residential Code	Tolled	LLR-Building Codes Council
4184			Update of International and National Codes	Tolled	LLR-Building Codes Council
Resolution Introduced to Disapprove					
4126			South Carolina Pesticide Control (R.27-1079 only)	Tolled	Clemson University-State Crop Pest Comm.

2 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

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

DOC. No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
4163	Board of Landscape Architectural Examiners	Labor, Commerce and Industry	Labor, Commerce and Industry
4161	Water Classifications and Standards	Agriculture and Natural Resources	Agriculture and Natural Resources
4162	Applications for Certification; Renewal of License and Permit, Continuing Education; and Operator-in-Training Licenses	Agriculture and Natural Resources	Labor, Commerce and Industry
4174	Hazardous Waste Management Regulations	Agriculture and Natural Resources	Medical Affairs
4175	Hazardous Waste Management Planning	Agriculture and Natural Resources	Medical Affairs
4176	Capital Expenditure Reviews Under Section 1122, Social Security Act	Ways and Means	Medical Affairs
4180	Minimum Standards for Licensing Chiropractic Facilities	Medical, Military, Pub & Mun Affairs	Medical Affairs
4182	Licensure for the Savannah River	Agriculture and Natural Resources	Labor, Commerce and Industry
4179	Electronic Equipment Collection and Recovery	Agriculture and Natural Resources	Medical Affairs
4181	Certification of Need for Health Facilities and Services	Medical, Military, Pub & Mun Affairs	Medical Affairs
4186	Soil Classifiers		
Committee Request Assessment Report			
4132	Environmental Protection Fees (Radioactive Material Licenses Fees)	Agriculture and Natural Resources	Agriculture and Natural Resources
4139	Environmental Protection Fees (Drinking Water Fees)	Agriculture and Natural Resources	Agriculture and Natural Resources
Committee Request Withdrawal			
4168	Perpetual Care Cemetery Board	Labor, Commerce and Industry	Labor, Commerce and Industry
4164	Child Labor	Labor, Commerce and Industry	Labor, Commerce and Industry
4183	International Residential Code	Labor, Commerce and Industry	Labor, Commerce and Industry
4184	Update of International and National Codes	Labor, Commerce and Industry	Labor, Commerce and Industry
Resolution Introduced to Disapprove			
4126	South Carolina Pesticide Control (R.27-1079 only)	Agriculture and Natural Resources	Agriculture and Natural Resources

Executive Order No. 2011-16

WHEREAS, the state of North Carolina has been impacted by Hurricane Irene resulting in evacuations and damages and has requested assistance from the State of South Carolina under the terms of the Emergency Management Assistance Compact, as provided in Section 25-9-420 of the South Carolina Code of Laws; and

WHEREAS, the state of North Carolina civil authorities have specifically requested the support of the South Carolina National Guard to assist in search and rescue in response to this disaster; and

WHEREAS, the South Carolina National Guard is prepared to provide the personnel and equipment necessary to assist the impacted areas;

NOW THEREFORE, pursuant to the powers conferred upon me by the Constitution and Laws of the State of South Carolina, I hereby direct the Adjutant General to place on state duty and utilize the South Carolina National Guard personnel and equipment requested through the Emergency Management Division and in consultation with the Governor's Office, to fulfill the mission in support of the state of North Carolina. National Guard personnel and equipment deployment and mission requirements should be coordinated through the Emergency Management Division in accordance with the Emergency Management Assistance Compact.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 26th DAY OF AUGUST, 2011.**

NIKKI R. HALEY
Governor

Executive Order No. 2011-17

WHEREAS, there exists a state of emergency in North Carolina due to the effects of Hurricane Irene; and

WHEREAS, it is necessary to expedite the movement of vehicles and loads that are transporting emergency equipment, services and supplies; and

WHEREAS, the State of South Carolina wishes to implement a companion policy authorizing the South Carolina Department of Transportation to waive certain restrictions concerning weight, length and height of loads that are transporting materials as stated above, with coordination and cooperation with the South Carolina Department of Public Safety, Transport Police as needed.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby order the Department of Public Safety in conjunction with the Department of Transportation to waive certain size and weight restrictions and penalties under the provisions set out in 23 CFR 658.17(h) and S.C. Code Sections 57-3-130(B)(1) and 56-5-70(B).

FURTHER, such weight, height, length, and width for any such vehicle on roadways maintained by the State of South Carolina shall not exceed the following:

4 EXECUTIVE ORDERS

(a) Maximum dimensions of 12' wide, 13.6" high and weights of 90,000 pounds is authorized continuous travel on interstate routes. Posted bridges may not be crossed. All vehicles must be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance and shall provide appropriate documentation indicating it is responding to this emergency.

(b) Any dimensions and/or weight of vehicles that exceed the above must obtain a permit with defined routes from the South Carolina Oversized/Overweight Permit office. To order a permit, please call 803-737-6769 during normal business hours, 8:30am-5:00pm.

(c) Transporters are responsible for ensuring they have oversize signs, markings, flags and escorts as required in the South Carolina Code of Laws relating to oversize/overweight loads operating on South Carolina roadways.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 31ST DAY OF AUGUST, 2011.**

**NIKKI R. HALEY
Governor**

Executive Order No. 2011-18

WHEREAS, the State of Vermont has been impacted by Hurricane Irene resulting in evacuations and damages and has requested assistance from the State of South Carolina under the terms of the Emergency Management Assistance Compact, as provided in Section 25-9-420 of the South Carolina Code of Laws; and

WHEREAS, the State of Vermont civil authorities have specifically requested the support of the South Carolina National Guard to assist in search and rescue in response to this disaster; and

WHEREAS, the South Carolina National Guard is prepared to provide the personnel and equipment necessary to assist the impacted areas.

NOW THEREFORE, pursuant to the powers conferred upon me by the Constitution and Laws of the State of South Carolina, I hereby direct the Adjutant General to place on state duty and utilize the South Carolina National Guard personnel and equipment requested through the Emergency Management Division and in consultation with the Governor's Office, to fulfill the mission in support of the State of Vermont. National Guard personnel and equipment deployment and mission requirements should be coordinated through the Emergency Management Division in accordance with the Emergency Management Assistance Compact.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 6th DAY OF SEPTEMBER, 2011.**

**NIKKI R. HALEY
Governor**

BUILDING CODES COUNCIL**NOTICE OF GENERAL PUBLIC INTEREST**

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

Mandatory codes include the:

2012 Edition of the International Building Code;
 2012 Edition of the International Residential Code;
 2012 Edition of the International Fire Code;
 2012 Edition of the International Plumbing Code;
 2012 Edition of the International Mechanical Code;
 2012 Edition of the International Fuel Gas Code;
 2011 Edition of the National Electrical Code.

Permissive codes include the:

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

The Council specifically requests comments concerning sections of the proposed editions, which may be unsuitable for enforcement in South Carolina. Written comments may be submitted to Gary F. Wiggins, Council Administrator, at P.O. Box 11329, Columbia, SC 29211-1329, on or before March 1, 2012.

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 September 23, 2011, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mrs. Sarah "Sallie" C. Harrell, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Charleston County

Relocation of an existing 1.0T Magnetic Resonance Imaging (MRI) unit from Johnnie Dodds Boulevard, Mount Pleasant, SC to a newly constructed medical office building located at 1122 Chuck Dawley Boulevard, Mount Pleasant, SC

Southeastern Spine Institute, LLC
 Mount Pleasant, South Carolina
 Project Cost: \$707,461

Affecting Greenville County

Addition of five (5) Psychiatric Beds and eight (8) inpatient alcohol and drug treatment beds

The Carolina Center for Behavioral Health
 Greer, South Carolina
 Project Cost: \$3,547,039

6 NOTICES

Affecting Horry County

Construction of a two-story, 20,855 sq. ft. inpatient hospice unit for terminally ill residents of Horry County
Agape' Hospice House of the Grand Strand Inc.
Conway, South Carolina
Project Cost: \$6,226,213.72

Affecting Lancaster County

Construction and renovation for the addition of a twenty-nine (29) bed inpatient psychiatric hospital to be located in the building formerly occupied by the Crenshaw Creek Rehabilitation Facility in Lancaster, SC
Rebound Behavioral Health, LLC
Lancaster, South Carolina
Project Cost: \$6,997,910

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from September 23, 2011. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Les W. Shelton, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-4200.

Affecting Beaufort County

Construction of a medical office building (MOB) for the relocation and expansion of outpatient services to include medical imaging services (including diagnostic x-ray, digital mammography, bone density, ultrasound, and a new CT unit and new nuclear medicine camera); pediatric rehab services (including physical, occupational and speech therapies); laboratory services and cardiopulmonary services (including new EKG and cardiac stress equipment)
Bluffton Outpatient Center
Bluffton, South Carolina
Project Cost: \$17,384,465

Establishment of a home health agency restricted to serve Beaufort County
Community Health, Inc.
Hilton Head Island, South Carolina
Project Cost: \$96,879

Establishment of a home health agency restricted to serve Beaufort County
Gentiva Certified Healthcare Corp. d/b/a Gentiva Home Health
Okatie, South Carolina
Project Cost: \$264,133

Establishment of a home health agency restricted to serve Beaufort County
Liberty Home Care VI – Beaufort County
Bluffton, South Carolina
Project Cost: \$132,611

Establishment of a home health agency restricted to serve Beaufort County
Lowcountry Nursing Group, LLC d/b/a Interim HealthCare
Ridgeland, South Carolina
Project Cost: \$83,010

Establishment of a home health agency restricted to serve Beaufort County
NHC Homecare-South Carolina, LLC d/b/a NHC Homecare Beaufort
Bluffton, South Carolina
Project Cost: \$70,000

Establishment of a home health agency restricted to serve Beaufort County
Tri-County Health Care & Services, Inc.
Beaufort, (Port Royal and Hilton Head), South Carolina; St. Helena Island/Lady's Island
Project Cost: \$73,000

Establishment of a home health agency restricted to serve Beaufort County
United Home Care, Inc. d/b/a United Home Care of the Low Country
Beaufort South Carolina
Project Cost: \$34,403

Affecting Charleston County

Development of a urological ambulatory surgical facility (ASF) with two (2) operating rooms (ORs)
Lowcountry Ambulatory Center, LLC
Charleston, South Carolina
Project Cost: \$8,359,380

Affecting Edgefield County

Establishment of a home health agency restricted to serve Edgefield County
Health Related Home Care
Greenwood, South Carolina
Project Cost: \$86,620

Affecting Georgetown County

Relocation of GI, x-ray, pain management, physical therapy and wound care services and addition of a 3.0T MRI to a medical office building located on the hospital campus
Waccamaw Community Hospital
Murrells Inlet, South Carolina
Project Cost: \$14,540,430

Affecting Greenville County

Addition of one (1) community nursing home bed, left over as a result of the consolidation of Dayspring Health & Rehab of Simpsonville and Omega Health & Rehab of Greenville, for a total of one hundred thirty-three (133) community nursing home beds
Alpha Health and Rehab of Greer, LLC
Greer, South Carolina
Project Cost: \$14,186

8 NOTICES

Construction of a 120-bed replacement facility to be located in Greenville, South Carolina, which will consolidate the existing forty-two (42) beds at Dayspring Health & Rehab, LLC and the existing seventy-eight (78) beds at Omega Health & Rehab of Greenville, LLC

Dayspring Health & Rehab of Simpsonville, LLC d/b/a Dayspring Health & Rehab of Greenville
Greenville, South Carolina

Project Cost: \$12,001,786

Affecting Horry County

Purchase and installation of a linear accelerator to be located within a newly constructed free-standing radiation therapy center

North Strand Radiation Oncology Center

Little River, South Carolina

Project Cost: \$9,522,745

Affecting Lexington County

Construction for the addition of fifty (50) nursing home beds that will not participate in the Medicaid (Title XIX) Program

NHC Healthcare – Lexington

Lexington, South Carolina

Project Cost: \$6,679,000

Conversion of forty-two (42) existing licensed institutional nursing home beds to forty-two (42) community nursing home beds to be added to the existing twenty (20) licensed community beds for a total of sixty-two (62) community nursing home beds that will not participate in the Medicaid (Title XIX) Program

SC Episcopal Home & Still Hopes, Inc.

West Columbia, South Carolina

Project Cost: \$0

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF FINAL AMENDMENT TO AIR QUALITY STATE IMPLEMENTATION PLAN

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

Pursuant to Section 110(a)(1) and (2) of the Clean Air Act (CAA), the South Carolina Department of Health and Environmental Control (Department) has revised the State Implementation Plan (SIP), by formally certifying to the U.S. Environmental Protection Agency (EPA) that it has met the obligations for the 2008 National Ambient Air Quality Standards (NAAQS) for lead. This lead infrastructure SIP certification serves to assure attainment and maintenance of the NAAQS.

Interested persons may contact Alan Hancock, Regulation and SIP Management Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or by phone at (803) 898-4139 or email at hancocam@dhec.sc.gov for more information.

Synopsis:

On October 15, 2008, the EPA issued a revised NAAQS for lead (73 FR 66964, November 12, 2008). The EPA lowered the primary and secondary standards to 0.15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). Sections 110(a)(1) and (2) of the CAA require all states to submit plans to provide for the implementation, maintenance, and enforcement of new or revised standards. Sections 110(a)(1) and (2) further require states to address basic SIP requirements, including but not limited to the following elements: emissions limits and other control measures, ambient air quality monitoring, a program for the enforcement of control measures, adequate resources to implement the SIP, and public notification and government consultation. Section 110(a) requires states to submit SIPs within three (3) years after promulgation of a new or revised standard, by October 15, 2011, in this case.

On December 9, 2010, Governor Mark Sanford submitted a request to the EPA that it designate the entire state of South Carolina as “attainment” for the 2008 lead NAAQS. On March 25, 2011, the Department published a Notice of General Public Interest in the South Carolina State Register that provided public notice of the Department’s proposal to certify that it had addressed the required SIP elements for lead attainment areas in South Carolina. On the same day, the Department submitted a prehearing package to EPA Region 4 for review. The aforementioned notice announced a 30-day comment period and a public hearing for the proposed lead infrastructure SIP certification. The Department did not receive comments or a request for a public hearing. Pursuant to 40 CFR 51.102, because there was no request for a public hearing, the Department did not hold a public hearing.

The Department is certifying to the EPA that it has addressed the SIP elements pertaining to the lead attainment areas in South Carolina. This lead infrastructure SIP certification specifies how the Department complies with the each SIP element for the 2008 lead NAAQS. This final amendment to the SIP takes effect upon publication of this Notice in the South Carolina *State Register* on September 23, 2011. The Department will submit a Notice of Final SIP Amendment to the EPA.

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

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF PUBLIC HEARING

OCCUPATIONAL SAFETY AND HEALTH STANDARDS

The South Carolina Department of Labor, Licensing, and Regulation (LLR) does hereby give notice under Section 41-15-220, S.C. Code of Laws, 1976, as amended, that a public hearing will be held on October 11, 2011 at 10:00 a.m. at the S.C. Department of LLR, 1st floor, room 107 , 110 Centerview Drive, Columbia, S.C., at which time interested persons will be given the opportunity to appear and present views on the occupational safety and health standards being considered for adoption.

Summary of changes: Phase III of the Standards Improvement Project (SIP-III) is the third in a series of rulemaking actions to improve and streamline OSHA standards. The Standards Improvement Project removes or revises individual requirements within rules that are confusing, outdated, duplicative, or inconsistent. OSHA identified several requirements for SIP-III for improvement based on the Agency's review of its standards, suggestions and comments from the public, or recommendations from the Office of Management and Budget (OMB). Improving these standards will help employers to better understand their obligations, promote safety and health for employees, lead to increased compliance, and reduce compliance costs. The sections of the amended standards are as follows:

10 NOTICES

In Subarticle 6 (General Industry and Public Sector Marine Terminals):

Revisions to Sections: 1910.6, 1910.33, 1910.34, 1910.35, 1910.36, 1910.77, 1910.132, 1910.134, 1910.141, 1910.145, 1910.147, 1910.184, 1910.440, 1910.1003, 1910.1017, 1910.1018, 1910.1020, 1910.1025, 1910.1027, 1910.1028, 1910.1029, 1910.1030, 1910.1043, 1910.1044, 1910.1045, 1910.1047, 1910.1050, 1910.1051, 1910.1450, 1917.2, and 1917.127.

In Subarticle 7 (Construction)

Revisions to Sections: 1926.51, 1926.60, 1926.62, 1926.251, 1926.1101, and 1926.1127.

Any omissions or corrections to the occupational safety and health standards being considered for adoption published in the FEDERAL REGISTER prior to this hearing may be presented at this hearing. These revisions are necessary to comply with federal law and copies of them can be obtained or reviewed at the S.C. Department of LLR during normal business hours by contacting the Occupational Safety and Health Administration office at (803) 896-5811.

Persons desiring to speak at the hearing shall file with the Director of LLR a notice of intention to appear and the approximate amount of time required for her/his presentation on the particular matter no later than October 7, 2011. Any person who wishes to express her/his views, but is unable or does not desire to appear and testify at the hearing, should submit those views to the undersigned in writing on or before October 7, 2011.

Catherine Templeton
Director
SC Department of LLR
Post Office Box 11329
Columbia, SC 29211-1329

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

ERRATA

This errata corrects a Notice of General Public Interest that was published in the *State Register* on August 26, 2011. The Notice was for the adoption of National Fire Protection Association (NFPA) 58, Liquefied Petroleum Gas Code, 2011 Edition.

This Notice of General Public Interest was published in error and this Standard will not need to be adopted at this time by the Office of State Fire Marshal.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 44-1-60 (2006 Act 367),
44-1-140(7), and 44-55-2310 et seq.,

Notice of Drafting:

The South Carolina Department of Health and Environmental Control (Department) proposes to amend S.C. Regulation 61-51, Public Swimming Pools. Interested persons are invited to submit their views and recommendations in writing to Richard Welch, P.E., Division of Drinking Water Protection, Bureau of Water, 2600 Bull Street, Columbia, South Carolina 29201, or by email at welchra@dhec.sc.gov. To be considered, written comments must be received no later than 5:00 p.m. October 24, 2011, the close of the drafting comment period.

Synopsis:

The Department proposes to amend R.61-51 to address issues regarding public swimming pool operation, maintenance, and to update design and construction standards to meet current industry practices. The amendments are needed to provide greater flexibility for public swimming pool owners and operators when making pool management and operations decisions, while providing safe and healthy recreation for swimmers. Changes related to improving lifeguard coverage requirements will be considered. There may also be stylistic changes and revisions that could include corrections for readability, grammar, punctuation, typography, codification, references, and language style.

Legislative review is required.

DEPARTMENT OF REVENUE
CHAPTER 117

Statutory Authority: 1976 Code Section 12-4-320

Notice of Drafting:

The South Carolina Department of Revenue is considering amending SC Regulation 117-329 concerning the application of the sales and use tax to communication services. This regulation summarizes the taxability of various communications services and attempts to list examples of communication services that the Department has held in the past as subject to the tax. For example, under the provisions of Code Sections 12-36-910(B)(3) and 12-36-1310(B)(3) that impose the sales and use tax on “charges for the ways or means for the transmission of the voice or messages,” the Department has taxed communication services such as telephone services, paging services, cable television services, satellite programming services (including, but is not limited to, emergency communication services and television, radio, music or other programming services), fax transmission services, voice mail messaging services, e-mail services, and database access transmission services (on-line information services), such as legal research services, credit reporting/research services, and charges to access an individual website.

The purpose of this amendment to SC Regulation 117-329 is to clarify that a non-automated answering service is not subject to the sales and use tax under Code Sections 12-36-910(B)(3) and 12-36-1310(B)(3). Therefore, the Department is proposing to amend SC Regulation 117-329 to delete “answering services” and “voice mail messaging services” from the list of examples of taxable communications services in subsection 117-329.4 of the regulation and to add “non-automated voice mail messaging services, including non-automated answering

12 DRAFTING NOTICES

and messaging services” to the list of examples of non-taxable communications services in subsection 117-329.5 of the regulation. Therefore, this amendment, if approved, will clarify that charges for “non-automated answering and messaging services” are not subject to the sales and use tax as “charges for the ways or means for the transmission of the voice or messages.”

Interested persons may submit written comments to Meredith F. Cleland, South Carolina Department of Revenue, Legislative Services, P.O. Box 125, Columbia, SC 29214. To be considered, comments must be received no later than 5:00 p.m. on October 24, 2011.

Synopsis:

The South Carolina Department of Revenue is considering amending SC Regulation 117-329 concerning the application of the sales and use tax to communication services. The purpose of this amendment to SC Regulation 117-329 is to clarify that a non-automated answering service is not subject to the sales and use tax under Code Sections 12-36-910(B)(3) and 12-36-1310(B)(3). Therefore, the Department is proposing to amend SC Regulation 117-329 to delete “answering services” and “voice mail messaging services” from the list of examples of taxable communications services in subsection 117-329.4 of the regulation and to add “non-automated voice mail messaging services, including non-automated answering and messaging services” to the list of examples of non-taxable communications services in subsection 117-329.5 of the regulation. Therefore, this amendment, if approved, will clarify that charges for “non-automated answering and messaging services” are not subject to the sales and use tax as “charges for the ways or means for the transmission of the voice or messages.”

Document No. 4198
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004), 59-18-110 (Supp. 2010), 59-29-10 et seq. (2004), 59-29-200 (2004), 59-33-30 (2004), 59-53-1810 (Supp. 2010), 20 U.S.C. 1232(g), and 20 U.S.C. 6301 et seq.

43-300. Accreditation Criteria

Preamble:

Section 59-5-60 of the Code of Laws of South Carolina delineates the general powers of the State Board of Education which includes the ability to promulgate regulations governing the operation of the public school system in the state. The proposed regulation regards 43-300, accreditation criteria.

Notice of Drafting for the proposed amendments was published in the *State Register* on July 22, 2011.

Section-by-Section Discussion

Regulation 43-300.

The current accreditation system for public schools is narrowly focused and relies on multiple years of failing to meet the same requirement in order to progress through the stages of accreditation. That system is stricken from the regulation and replaced by a new proposed system. The Department of Education proposes to implement a system that takes into consideration several factors including teacher and administrator certification, measures of student achievement, health and safety, on-going planning for improvement, finance, and relevant state statutes and State Board of Education regulations. A rubric will be used to assign a numerical grade to each district and school to determine the appropriate accreditation classification. The proposed amendment to the regulations will also allow exemptions for districts and schools that are accredited through an approved accrediting entity such as AdvancEd, and for those who meet or exceed the state's academic standards as determined by the state report card.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the S.C. Code, as amended, such hearing will be held on November 10, 2011, at 1:00 p.m. in the Rutledge Building Conference Center, 1429 Senate Street, Columbia, SC 29201. Persons desiring to make oral comment at the hearing are asked to provide written copies of their presentation for the record. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Written comments, requests for the text of the proposed amendments or any other information, and any requests for a public hearing, should be submitted to South Carolina Department of Education, Attn: Steve Abbott, 1429 Senate Street, Room 502, Columbia, SC 29201 on or before 5:00 p.m. on October 24, 2011. Copies of the text of the proposed amendments for public notice and comment are available at <http://www.ed.sc.gov>.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The Department of Education estimates that no additional costs will be incurred by the State and its political subdivisions in complying with the proposed revisions to Regulation 43-300.

14 PROPOSED REGULATIONS

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 43-300. Accreditation Criteria.

Purpose: The regulation is proposed to strengthen the procedures used to accredit public schools and school districts in the state.

Legal Authority: 1976 Code Sections 59-5-60 (2004), 59-18-110 (Supp. 2010), 59-29-10 et seq. (2004), 59-29-200 (2004), 59-33-30 (2004), 59-53-1810 (Supp. 2010), 20 U.S.C. 1232(g), and 20 U.S.C. 6301 et seq.

Plan for implementation: The proposed amendments would be incorporated within 43-300 upon publication in the *State Register* as a final regulation. The proposed amendments will be implemented in the same manner in which the existing regulation is implemented. School and district personnel will be informed of the new procedures through regional training sessions and through electronic correspondence.

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

As reflected in 1976 Code Sections 59-5-60 (2004), 59-18-110 (Supp. 2010), 59-29-10 et seq. (2004), 59-29-200 (2004), 59-33-30 (2004), 59-53-1810 (Supp. 2010), 20 U.S.C. 1232(g), and 20 U.S.C. 6301 et seq., the state is charged with accrediting public schools and school districts. The current regulation as written has failed to provide a method to effectively discriminate whether an educational entity is offering educational opportunities as described by law and statute. The current system looks primarily at the certification of teachers and administrators and relies heavily on self-reporting for adherence to statutes and regulations. The proposed changes will allow for a more nuanced system that relies on multiple measures of compliance. It also offers alternatives to Department of Education accreditation for schools and districts that are accredited by approved entities or have met or exceeded academic standards. It is believed that this increased flexibility is appropriate and will enhance the accreditation process.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the state or its political subdivisions, nor will the proposed amendments result in any increased cost to the business community.

UNCERTAINTIES OF ESTIMATES:

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

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulations have no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulations are not implemented.

Statement of Rationale:

The changes herein related to the updating of the accreditation regulation focus on eliminating a system that has come to have little meaning. A new method for accrediting districts and schools has been proposed that uses multiple measures and covers a broader range of indicators. It also provides for alternative means of

gaining accreditation status. In several instances, language is clarified to more closely reflect the nature and purpose of the regulation.

Text:

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

Document No. 4199
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: 1976 Code Sections 59-43-10 et seq. (2004)

43-237.1. Adult Education Program

Preamble:

The State Board of Education is responsible for the administration, coordination, and management of adult basic and adult secondary (GED and high school diploma) education for the purpose of facilitating and coordinating adult basic and adult secondary (GED and high school diploma) education programs for South Carolina adults whose level of educational attainment is below high school, as prescribed by state and federal laws and regulations.

Notice of Drafting for the proposed amendments was published in the *State Register* on July 22, 2011.

Section-by-Section Discussion

- Section B Office of Adult and Community Education was changed to Office of Adult Education.
- Section D This section has been deleted.
- Section E Now listed as Section D.
- Section F Now listed as Section E.
- Section G Now listed as Section F.
- Section H Now listed as Section G.
- Section I Now listed as Section H. State adult education funds will no longer be allocated strictly on enrollment the previous school year. Factors such as target populations without a high school credential, program enrollment the previous school year, total hours of attendance the previous school year, and performance factors will determine program allocations. Office of Adult and Community Education was changed to Office of Adult Education.
- Section J Now listed as Section I. The word “federal” was added.
- Section K Now listed as Section J. Technical Colleges removed from title of the section. The term “other eligible agencies” was added to the narrative.
- Section L Now listed as Section K. Office of Adult and Community Education was changed to Office of Adult Education. The term “special initiatives” has been added.

16 PROPOSED REGULATIONS

Section M	Now listed as Section L. Under the section entitled Nonfundable Classes, the classroom portion of drivers education is no longer an approved expenditure using adult education funds.
Section N	Now listed as Section M. The word “qualified” was added to describe volunteers.
Section O	This section has been deleted.
Section P	Now listed as Section N. Reference to the Program Enrollment Report has been deleted. Instruction for submitting quarterly expenditure reports is provided.
Section Q	Now listed as Section O. Office of Adult and Community Education was changed to Office of Adult Education. Language regarding the review of expenditure reports by staff of the Office of Adult Education has been revised. The reference to released funds has been deleted.
Section R	Now listed as Section P.
Section S	Now listed as Section Q.
Section T	Now listed as Section R.
Section U	Now listed as Section S. Office of Adult and Community Education was changed to Office of Adult Education.
Section V	Now listed as Section T.
Section U	This is a new section regarding local program income.

A new section entitled Local Program Income must be added because of required federal guidelines.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant Section 1-23-110(A)(3) of the S.C. Code, as amended, such hearing will be held on November 10, 2011 at 1:00 PM in the Rutledge Conference Center, Rutledge Building, 1429 Senate Street, Columbia, South Carolina. Persons desiring to make oral comment at the hearing are asked to provide written copies of their presentation for the record. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Written comments, requests for the text of the proposed amendments or any other information, and any requests for a public hearing, should be submitted to the Office of Adult Education, Attn: David Stout, 1429 Senate Street, Suite 908, Columbia, SC 29201, on or before 5:00 PM on October 24, 2011.

Preliminary Fiscal Impact Statement:

It is estimated that there will be no fiscal impact.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 43-237.1. Adult Education Program.

Purpose: These regulations provide guidance to school districts and other eligible adult education providers.

Legal Authority: 1976 Code Sections 59-43-10 et seq. (2004).

Plan for Implementation: The proposed amendments would be incorporated within R.43-237.1 upon publication in the State Register as a final regulation. The proposed amendments will be implemented in the same manner in which the existing regulation is implemented

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

None.

DETERMINATION OF COSTS AND BENEFITS:

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

UNCERTAINTIES OF ESTIMATES:

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

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulations have no effect on the environment or on public health. There will be no detrimental effect on the environment or public health if the regulations are not implemented.

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

None.

Statement of Rationale:

The proposed changes are needed in order to correct the office name and revise funding guidelines.

Text:

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

18 PROPOSED REGULATIONS

Document No 4200
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004), 59-5-65 (2004), 59-18-300 (Supp. 2010), 59-18-310(B) (Supp. 2010) and 59-18-320(C) (Supp. 2010)

43-262.4. End-of-Course Tests

Preamble:

The State Board of Education proposes to amend R.43-262.4 in response to requests from parents. Students who take two courses based on the same academic standards for which there is an end-of-course test would take the test for the first course and the score would count as 20% of the final grade. If the student passes the first course, the second course would not be a gateway course for that student. The student would not take an end-of-course test for the second course and the student's final grade would be calculated without an end-of-course score.

Notice of Drafting for the proposed amendments was published in the *State Register* on July 22, 2011.

Section-by-Section Discussion

- Section I(A)(3) Adds the number 1 in two places to identify the specific biology course.
Deletes reference to Physical Science in compliance with R.43-234.
- Section I(A)(5) Changes wording from curriculum to academic.
- Section I(B) Delete "s" to correct language.
Adds language to allow students to exempt the end-of-course test under a specific circumstance.
- Section II(A) Changes wording from curriculum to academic.
- Section III Changes wording from curriculum to academic.
Deletes language addressing the first cyclical review of the standards.
- Section IV Changes wording from State to South Carolina.
- Section V Changes wording in two places from Curriculum to Academic.
- Section VI Adds the word paper.
Changes wording in two places from curriculum to academic.

Notice of Public Hearing and Opportunity for Public Comment:

A hearing pursuant to South Carolina Code Ann. Section 1-23-110(A)(3), as amended, will be held November 10, 2011 at 1:00 p.m. in the Rutledge Conference Center, Rutledge Building, 1429 Senate Street, Columbia, South Carolina 29201. Persons desiring to make oral comments at the hearing are asked to provide written copies of their presentation for the record. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Written comments, requests for the text of the proposed amendments or any other information, and any requests for a public hearing, should be submitted to the Division of Accountability, Attn: Elizabeth Jones, Rutledge Building, Room 603-G, 1429 Senate Street, Columbia, South Carolina 29201, or ejones@ed.sc.gov on or before 5:00 p.m. on October 24, 2011. Copies of the text of the proposed amendments for public notice and comment are available at <http://www.ed.sc.gov/agency/stateboard>.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The South Carolina Department of Education estimates that no additional costs will be incurred in complying with the proposed revisions to R.43-262.4.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: State Board of Education Regulation 43-262.4. End-of-Course Tests.

Purpose: Changes to R.43-262.4 are proposed in response to requests from parents. Other changes are to update wording.

Legal Authority: 1976 Code Sections 59-5-60 (2004), 59-5-65 (2004), 59-18-300 (Supp. 2010), 59-18-310(B) (Supp. 2010) and 59-18-320(C) (Supp. 2010).

Plan for Implementation: The proposed amendments would be incorporated within R.43-262 upon publication in the *State Register* as a final regulation. The proposed amendments will be implemented in the same manner in which the existing regulation is implemented.

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

The changes meet the needs of students who have previously taken and passed a gateway course that included the end-of-course test as 20% of the student's grade.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the state or its political subdivisions, nor will the proposed amendments result in any increased cost to the school districts. The proposed amendments will benefit students, schools, districts, and the state.

UNCERTAINTIES OF ESTIMATES:

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

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulation has no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulation is not implemented.

Statement of Rationale:

Students who have successfully completed a gateway course and then take a course based on the same academic standards should not be required to take the same subject end-of-course test a second time.

Text:

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

20 PROPOSED REGULATIONS

Document No. 4201
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004) and 59-29-170 (2004)

43-220. Gifted and Talented

Preamble:

The Gifted and Talented Regulation needs to be amended to reflect changes in terminology, best practices, and accountability. The proposed amendments to Regulation 43-220 conform to changes in state law, add clarification, and update obsolete terminology in the field of Gifted and Talented Education.

The Notice of Drafting regarding the proposed amendments to the regulation was published in the *State Register* on July 22, 2011.

Section-by-Section Discussion

Introduction	Changed programs to programmings to be in alignment with current terminology in the field.
Section I	Reordered and renumbered the terms.
Section II A.	Changed Programs to Programming; This is repeated throughout the document.
Section II A.1	Clarified the expectations for a continuum of services and extended the current three year plans to five year plans based on recommendations from the field. Added section (f), specifying programmatic evaluation in terms of the district's goals.
Section II A.2	Added clarity to the required characteristics of curriculum, instruction, and assessments.
Section II A.3	Added "the most current edition of the" in front of the South Carolina Gifted and Talented Best Practices Manual.
Section II A.4	Changed Programs to Programming.
Section II A.5	Changed Programs to Programming Added Critical Thinking Seminars as an acceptable Extension Model for grades 1-2; added Virtual School Courses, Charter School Experiences, and International Baccalaureate Classes as acceptable Extension Models for grades 3-5 and for grades 6-12.
Section II A.6	Added innovative.
Section II A.7	Deleted the teacher planning requirement.
Section II A.8	Changed Programs to Programming; reorganized information into a chart with all of the information in one place to make it easier to understand the requirements of each acceptable model.
Section II A.9 (new)	Added the teacher planning requirement and a more flexible allowance based on local normal practices.
Section II A.10 (new)	Clarified professional development expectations.
Section II B.1	Added "academic" in front of behaviors.
Section II B.4	Added "the most current edition of the" in front of the South Carolina Gifted and Talented Best Practices Manual.
Section II B.5	Added local flexibility for Evaluation Placement Teams; deleted pre-1999 students as they have exited the school system; re-lettered list; added (d) allowing students who are Gifted and Talented identified in other states to be eligible for immediate placement in South Carolina.

- Section II B.7 Added “the most current edition of the” in front of the South Carolina Gifted and Talented Best Practices Manual; deleted the reference to “Advanced” scoring on PACT; extended the allowance of GPAs to grade six (from 7); renamed Project STAR to its actual assessment, Performance Task Assessment.
- Section II B.8 Altered the composition of the Individual Evaluation Placement Team to use a guidance counselor or a psychologist employed by the district.
- Section II C.1 Changed training to gifted and talented endorsement program; added an intermediate level of endorsement; replaced all training references with endorsement; clarified accredited Institutes of Higher Learning.
- Section II C.2 Added detail for Professional Development.
- Section II D.1 Specified vehicle for submitting annual data reports.
- Section II D.2 Changed PACT reference to PASS.
- Section II D.3 Changed the enrollment reports to reflect current legislation.
- Section II E.3 Changed the minimum allocation to its original intent in the mid 1980’s.
- Section III A.2 Updated from Worldwide communications to global and added current terminology; clarified programming evaluations must be based on goals specified in the local five year gifted and talented plans.
- Section III A.3 Changed drama references to theatre; Added” the most current edition of the” in front of the South Carolina Gifted and Talented Best Practices Manual.
- Section III B.1 Specified artistic areas as dance, music, theatre, and visual arts; added clarifying language to purposes of identification.
- Section III C. Added audition/portfolio to reflect common practices; added “the most current edition of the” in front of the South Carolina Gifted and Talented Best Practices Manual; added language to allow the use of electronic submissions at the district’s discretion; added flexibility to committee members.
- Section III E. Changed from three to five year plans.

Notice of Public Hearing and Opportunity for Public Comment:

Should a public hearing be requested pursuant to Section 1-23-110(A)(3) of the S.C. Code, as amended, such one will be held on Thursday, November 10, 2011 at 1:00 PM in the Rutledge Conference Center, at the South Carolina Department of Education, 1429 Senate Street, Columbia, SC 29201. Persons desiring to make oral comment at the hearing are asked to provide written copies of their presentation for the record.

Written comments may be sent to Rick Blanchard at the South Carolina Department of Education, 1429 Senate Street, Room 501-D, Columbia, SC 29201, on or before 5:00 PM on October 24, 2011.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The State Department of Education estimates that no additional costs will be incurred by the State and its political subdivisions in complying with the proposed revisions to Regulation 43-220.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 43-220. Gifted and Talented.

Purpose: The regulation is to identify gifted and talented students in the state and to provide the framework for provision of programming and services for these students in order to develop their unique talents. The amendment is proposed to help clarify and update the curriculum, instruction, and assessment.

Legal Authority: 1976 Code Sections 59-5-60 (2004) and 59-29-170 (2004).

22 PROPOSED REGULATIONS

Plan for Implementation: The proposed amendments would be incorporated within the present regulation. As part of the training and information offered routinely, information on the new amendments will be delivered to the various audiences by monthly, state-wide gifted and talented streamlined videos; newsletter; six fall regional workshops for guidance counselors, state-wide gifted coordinator meetings, state-wide visual and performing arts coordinator meetings; and Elluminate session.

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

As reflected in Sections 59-5-60 and 59-29-170, the state is charged with identifying and providing programming to all gifted and talented students in grades one through twelve to develop the unique talents of these students. The proposed amendments will clarify and update the regulation to carry out this purpose.

DETERMINATION OF COSTS AND BENEFITS:

There will be neither increased cost to the state or its political subdivisions, nor will the amendments result in any increased cost to the business community.

UNCERTAINTIES OF ESTIMATES:

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

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulation has no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulation is not implemented.

Statement of Rationale:

The proposed changes to the regulation are needed to clarify and update the regulation regarding the education of academically and artistically gifted and talented students.

Text:

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

Document No. 4202
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: Individuals with Disabilities Education Improvement Act of 2004,
 20 U.S.C. 1400 et seq. (2004)

43-243. Special Education, Education of Students with Disabilities

Preamble:

The State Board of Education proposes to amend R.43-243 to align state rules, regulations, and policies relating to the education of children with disabilities to the purposes and requirements of the Individuals with Disabilities Education Improvement Act of 2004 regulation 34 CFR Parts 300 and 301 as amended December 2008. This regulation will amend current regulation 43-243.

Notice of Drafting for the proposed amendments was published in the *State Register* on July 22, 2011.

Section-by-Section Discussion

Definitions of several categories of disability have been changed to align with R 43-243.1, Criteria for Entry into Programs of Special Education for Students with Disabilities. The upper age range for students with disabilities has been clarified throughout the regulation. The date for the annual child count has been changed to the range of October 1 through December 1, consistent with the federal regulations. The term “mentally retarded” and other similar terms, have been replaced with “intellectual disabilities”. Where appropriate, the phrase “an SEA” is replaced with “the SEA”.

Section

I(B)(5)(b)	Replace definition of Developmental Delay
I(B)(5)(c)(1)	Replace definition of Autism
I(B)(5)(c)(3)	Replace definition of Deafness
I(B)(5)(c)(4)(ii)	Amend definition of Emotional Disturbance
I(B)(5)(c)(6)	Amend definition of Mental Retardation
I(B)(5)(c)(7)	Amend definition of Multiple Disabilities
I(B)(5)(c)(12)	Amend definition of Traumatic Brain Injury
II(B)(1)(a)	Clarify explanation of age range
II(B)(2)(a)(1)(i and ii)	Clarify explanation of age range
II(C)(7)	Clarify explanation of age range
II(C)(9)(a)(4)	Delete reference as the State has adopted the term developmental delay
II(G)(4)(a)(1)	Clarify explanation of age range
II(G)(4)(c)(1)(ii)	Amend dates for the collection of annual child count to be consistent with federal regulations
II(G)(5)	Delete reference to SEA consultation with private schools as this is an LEA responsibility in South Carolina
II(G)(11)(c)(1)	Change “an SEA” to “the SEA”
II(K)(1)(b)	Change “an SEA” to “the SEA”
II(O)(3)(b)(2)	Change “an SEA” to “the SEA”
III(19)(a-c)	Change “an SEA” to “the SEA”
III(22)(a)(1)	Change “an SEA” to “the SEA”
III(25)(b-e)	Change “an SEA” to “the SEA”
IV(C)(3)(ii)	Change mental retardation to intellectual disability
IV(C)(6)	Change mental retardation to intellectual disability
V(18)(a)(ii)	Change “an SEA” to “the SEA”
V(B)(1)(g)(1-2)	Change “an SEA” to “the SEA”

24 PROPOSED REGULATIONS

VI(A)(9)(a)	Change “an SEA” to “the SEA”
VII(A)(1)(b)(1)(i)(B)	Clarify age range
VII(A)(1)(b)(2)(i)(B)	Clarify age range
VII(A)(1)(b)(2)(iii)(A)	Clarify age range
VII(A)(4)(c)(1)(i)(B)	Clarify age range
VII(A)(5)(c)(6)(ii)	Change “an SEA” to “the SEA”
VII(A)(6)(b)(2)(i-iv)	Clarify age range
VII(A)(6)(c)(1-2)	Change “an SEA” to “the SEA”
VII(A)(7-16)	Delete, not applicable in South Carolina
VII(C)(1)(c)	Correct typographical error
VIII(13)(b)(2)	Correct typographical error
VIII(14)(a-b)	Change “an SEA” to “the SEA”

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at the public hearing to be conducted by the State Board of Education at its meeting on November 10, 2011, at 1:00 PM in the Rutledge Conference Center; 1429 Senate Street, Columbia. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy, are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Marlene Metts, Director, Office of Exceptional Children, 1429 Senate Street, Columbia, South Carolina 29201, or email mametts@ed.sc.gov. Comments submitted by October 24, 2011, at 5:00 PM shall be submitted to the Board.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

The amendments to this regulation are needed to revise definitions of categories of disability, clarify the age range for services, and change the date range for the collection of the annual child count.

DESCRIPTION OF REGULATION:

Purpose: R.43-243 is being amended.

Legal Authority: Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. 1400 et seq. (2004).

Plan for Implementation: The proposed amendment would be incorporated within Regulation 43-243 upon publication in the State Register as a final regulation. The South Carolina Department of Education provides routine training the implementation of state and federal regulations.

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

The amendment is needed to update definitions, clarify age ranges and change the annual child count date range.

DETERMINATION OF COSTS AND BENEFITS:

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

UNCERTAINTIES OF ESTIMATES:

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

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation does not have any effect on the environment or public health.

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

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

Statement of Rationale:

The purpose of the proposed amendment is to align SBE regulation 43-243 with federal regulations and also with SBE regulation 43-243.1. This action is necessary to change definitions of certain categories of disability, clarify age ranges for services, and change the date range for the annual child count collection.

Text:

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

Document No. 4197

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

Statutory Authority: 1976 Code Section 30-4-45

61-___. Access to Restricted Information

Preamble:

The South Carolina Department of Health and Environmental Control (Department or DHEC) proposes a new regulation to implement provisions of the South Carolina Freedom of Information Act that require the Department, as custodian of information, the unrestricted access to which could increase the risk of acts of terrorism, to promulgate regulations to regulate access to this information. Restricted Information includes information subject to the provisions of 42 U.S.C. 7412(r)(7)(H), 40 CFR 1400, 10 CFR 73.21 as well as information identified by the Department to the Attorney General pursuant to S.C. Code Section 30-4-45(B).

The Notice of Drafting for this regulation was published in the State Register on May 27, 2011. No comments were received in response to the Notice of Drafting.

Legislative review of this proposed promulgation will be required.

Discussion of Proposed New Regulation:

61- ___. Access to Restricted Information

26 PROPOSED REGULATIONS

Section A. Purpose and Scope. This section addresses the purpose and scope and identifies the enabling statute for this regulation. The procedures developed in this regulation are necessary to comply with the South Carolina Freedom of Information Act.

Section B. Definitions. This section includes definitions for the following six terms: 'Department', 'Governmental functions', 'Department's Headquarters', 'Requestor', 'Restricted Information', and 'Vulnerable zone'.

Section C. Release of Restricted Information. This section establishes procedures for the release of restricted information to local, state, and federal authorities in the exercise of their official governmental functions.

Section D. Disclosure in Vulnerable Zone. This section establishes procedures for access to restricted information for individuals who live or work in a vulnerable zone.

Section E. Special Requests. This section establishes procedures for release of restricted information upon special requests that involve scientific or academic research, advance knowledge about South Carolina's environment, or otherwise provide benefit to the state.

Section F. Requests for Restricted and Unrestricted Information. This section addresses the handling of requests for information that involve both restricted and unrestricted information.

Section G. Customary Charges for Copies. This section addresses the applicability of customary charges for copies of records that are released pursuant to this regulation.

Notice of Staff Informational Forum and Public Comment Period:

Department staff invites interested members of the public and regulated community to attend a staff-conducted informational forum to be held on October 24, 2011, at 10:30 a.m. in Room 3380 at the Aycock Building, Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. The purpose of the forum is to answer questions, clarify issues, and receive oral or written comments by interested persons on the proposed regulation. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street entrance and register at the front door.

Interested parties are also provided an opportunity to submit written comments on the proposed regulation by writing to Claire H. Prince, Esq., Office of General Counsel, S.C. DHEC, 2600 Bull Street, Columbia, S.C. 29201, or by email to princech@dhec.sc.gov. To be considered, written comments must be received no later than 5:00 p.m. on October 24, 2011, the close of the public comment period.

Copies of the State Register Notice of Proposed Regulation and the text of the proposed regulation may be obtained by contacting Claire H. Prince at the Office of General Counsel, S.C. DHEC, 2600 Bull Street, Columbia, S.C. 29201, or from the DHEC Regulation Development Update website at <http://www.scdhec.gov/regulatory.htm>; click on the Update, the Office of General Counsel category, and scan down for this proposed regulation.

Comments received at the forum and/or submitted in writing by the close of the public comment period as noticed above shall be considered by staff in formulating the final text of the proposed regulation and shall be submitted in a Summary of Public Comments and Department Responses for consideration by the Board of Health and Environmental Control at the public hearing scheduled for December 8, 2011 as noticed below.

Notice of Board Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on December 8, 2011. The public hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. 29201. The Board meeting commences at 10:00 a.m. at which time the Board will consider items in the order presented on its agenda. The agenda is published by the Department 24 hours in advance of the meeting. Persons who wish 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 presentation for the record. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street entrance and register at the front door.

The Board's agenda will be posted in advance of the meeting at the Department, as well as on the Department's website at <http://www.scdhec.gov/administration/board.htm>.

Preliminary Fiscal Impact Statement:

There will be no cost to the State General Fund. Staff anticipates that there will be no additional cost to the Department as the implementation of this regulation will be managed by existing staff. There will be no additional cost to local governments.

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115.

DESCRIPTION OF REGULATION: Proposed new regulation, Access to Restricted Information.

Purpose: The purpose of this regulation is to implement the provisions of S.C. Code Section 30-4-45 that require the Department, as custodian of information, the unrestricted access to which could increase the risk of acts of terrorism, to promulgate regulations to regulate access to this information.

Legal Authority: Section 30-4-45, S.C. Code of Laws, 1976 (2007).

Plan for Implementation: Copies of the regulation will be available electronically on the South Carolina Legislature Online website and on the Department's Regulatory website in its DHEC Regulation Development Update at <http://www.scdhec.gov/regulatory.htm> as described above. Printed copies will also be available for a fee from the Department's Freedom of Information office. Existing staff of the Department's Freedom of Information office, in consultation with the Office of General Counsel, will coordinate implementation of the regulation within the Department.

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

The need for this regulation is stated in the South Carolina Freedom of Information Act, S.C. Code Section 30-4-40, as follows:

“(c) Information identified in accordance with the provisions of Section 30-4-45 is exempt from disclosure except as provided therein and pursuant to regulations promulgated in accordance with chapter. Sections 30-4-30, 30-4-40, and 30-4-100 notwithstanding, no custodian of information subject to the provisions of Section 30-4-45 shall release the information except as provided therein and pursuant to regulations promulgated in accordance with this chapter.”

28 PROPOSED REGULATIONS

S.C. Code Section 30-4-45 directs each agency that is the custodian of such information to promulgate regulations establishing procedures for the access to Restricted Information. The regulation is needed to comply with the requirements of the South Carolina Freedom of Information Act. The regulation can be implemented using existing staff without impact to the General Fund. It establishes procedures for access to Restricted Information in accordance with the Act. It aids in the protection of public health, public safety, and the environment by ensuring that such information is restricted except to the extent allowed by law.

DETERMINATION OF COSTS AND BENEFITS:

Internal Costs: Implementation of this regulation will not require additional resources beyond those currently allocated to the Department.

External Costs: There will be no additional costs beyond the customary charges to governmental agencies that request Restricted Information to carry out their governmental functions or to special requestors of Restricted Information. By law, persons within a vulnerable zone may view Restricted Information, but may not remove or reproduce it, therefore, there will be no cost to those persons.

External Benefits: There will be a benefit to state, federal, and local authorities that need access to Restricted Information to carry out their official governmental functions. There will be a benefit to persons who live in a designated vulnerable zone because it will allow them to view Restricted Information concerning their community. There will be a benefit for special requests approved by the Department to further scientific and/or academic research that advances knowledge about the environment in South Carolina. The procedures established by regulation will provide a benefit to the general public by ensuring greater protection from the unrestricted access to information that could be used in a manner that increases the risk of acts of terrorism in South Carolina.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no adverse effect on the environment and public health. The proposed regulation will ensure greater protection of public health, public safety, and the environment by having established procedures for access to Restricted Information.

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

Without established procedures for access to Restricted Information, such release to unauthorized persons could increase the possibility of the use of such information in a manner that increases the risk of acts of terrorism in South Carolina.

Statement of Rationale:

S.C. Code Section 30-4-45 directs the Department, as custodian of information, the unrestricted access to which could increase the risk of acts of terrorism, to promulgate regulations to regulate access to this information.

Text:

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

Filed: September 1, 2011 9:36am

Document No. 4195
DEPARTMENT OF NATURAL RESOURCES
 CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-10, and 50-11-2200

Emergency Situation:

These emergency regulations establish the dove seasons and dove limits statewide and establish seasons, limits and special restrictions for dove hunting on Dove Management Areas. Because the dove season begins September 3, it is necessary to file these regulations as emergency.

Text:

WILDLIFE MANAGEMENT AREA PUBLIC DOVE FIELDS 2011-12

Dove Management Area Regulations: The following fields are open on a first-come basis, unless otherwise stated below. The number of hunters may be restricted on some fields. A Wildlife Management Area permit is required for all fields. Fields are open only as shown below. Please consider the other hunters as well as the landowners whose cooperation makes these fields possible. Signs will be placed along roads directing hunters to the fields. All federal and state laws apply. Fields are open only on days and times indicated. Fields denoted by an asterisk (*) require hunters to sign in (not before 12:00 noon) and sign out on ALL hunts. No species other than mourning doves and Eurasian collared doves may be hunted during scheduled dove hunts. Please remove all litter, including spent shell hulls, from fields when leaving! Migratory Bird Permit Required.

Statewide Season Dates:

September 3 - October 8 (Sept 3-5 Afternoons only): November 19 - November 26: December 21 - January 15
 Bag Limit: Mourning Doves: 15 doves per day. No limit on Eurasian collared doves.

The following special regulations apply to all Wildlife Management Area Public Dove Fields: Hunters are limited to 50 shells per hunt. No entry onto fields before 12:00 noon. No shooting after 6:00 p.m. during the first segment of the season (September 3 – October 8)

ABBEVILLE

U.S. Forest Service - Bass Road Field - 5 mi. east of Abbeville on SC-72, ¼ mile south on Bass Rd., 60 acres.
 1st season – Saturdays Only beginning Sept. 17. Sept. 3 is Youth Hunt Only – Pre-registration required. 2nd and 3rd season – Open Mon. – Sat.

AIKEN

US Dept of Energy, Crackerneck WMA
 40 acres. 1st season – Sept. 7 & 21; 2nd & 3rd season – Fridays, Saturdays & Thanksgiving Day ONLY.

ANDERSON

Clemson University - Fant's Grove WMA
 45 acres. 1st season, Saturdays –FIELD CLOSED OCT. 1st. Open 2nd & 3rd seasons – Saturdays Only

***BERKELEY**

U.S. Army Corps of Engineers - Canal WMA (Above Powerhouse)
 60 acres. Sept. 3, 17; Oct. 1; Nov. 19

30 EMERGENCY REGULATIONS

U.S. Army Corps of Engineers - Canal WMA (Below Powerhouse)
40 acres. Dove Hunting Only - Sept. 3, 17; Oct. 1; Nov. 19.

CHARLESTON

Botany Bay Plantation WMA
70 acres. All hunts are Youth Only.

CHEROKEE

Gaffney Board of Public Works
20 acres. Saturdays Only. Dove Hunting Only

CHESTER

U.S. Forest Service - Worthy Bottoms
30 acres. 1st season - Saturdays Only, Afternoons Only.
2nd & 3rd seasons - Open Mon. - Sat. Afternoons Only

CHESTERFIELD

SC Forestry Commission - Sand Hills State Forest
Wilkes Chapel Field. 54 acres. 1st season - Saturdays Only, 2nd & 3rd seasons - Open Mon. - Sat.

SC Forestry Commission - Sand Hills State Forest
Davis Field. 30 acres. 1st season - Sept. 3 and Wednesdays Only, beginning Sept. 14
2nd & 3rd seasons - Open Mon. - Sat.

***CLARENDON**

Santee Cooper - Santee Dam WMA
60 acres. Sept. 3, 17; Oct. 1; Nov. 26, Jan. 7.

SC Forestry Commission Oak Lea WMA. 102 ac.
Sept. 3, 17, Oct. 1; Jan. 7 & 14. Opening day participants selected by drawing.

***COLLETON**

DNR - Bear Island WMA Closed

DNR - Donnelley WMA

80 acres. Sept. 17, Sept. 24; Oct. 8; Nov. 23

DARLINGTON

DeWitt Property 50 acres.
1st, 2nd, and 3rd Seasons - Saturdays Only, Dove Hunting Only

FLORENCE

Santee Cooper - Pee Dee Station Site WMA
60 acres. 1st, 2nd, and 3rd Seasons Saturdays Only - Dove Hunting Only Opening day participants selected by drawing.

GEORGETOWN

DNR Samworth WMA Closed

***HAMPTON**

DNR - Webb Wildlife Center
30 acres - Sept. 17, 28; Oct. 8; Nov. 23.

LEXINGTON

Hallman Field

45 acres. 1st, 2nd, and 3rd seasons -Saturdays Only, Dove Hunting Only

MARLBORO

DNR - Lake Wallace WMA

50 acres. 1st, 2nd, and 3rd seasons Saturdays Only - Dove Hunting Only

MCCORMICK

U.S. Army Corps of Engineers - Bordeaux Work Center Field

40 acres. Sept.3 & 14; Oct 5; Nov. 23, Jan. 4 & 14 only, Dove Hunting Only.

U.S. Army Corps of Engineers – Parksville Field

22 acres. 1st season – Saturdays Only, 2nd & 3rd seasons – Open Mon. - Sat.

U.S. Forest Service- Cunningham Fields

40 acres. 1st season –Saturdays Only, 2nd & 3rd seasons - Open Mon. -Sat.

US Army Corp of Engineers - Plum Branch Saddle Club Fields

30 acres. 1st season – Saturdays Only, 2nd & 3rd seasons – Open Mon. - Sat.

U.S Forest Service - McCombs Tract Field

60 acres. 1st season – Saturdays Only, 2nd and 3rd season – Open Mon. - Sat.

U.S. Forest Service - Price Mill Field

60 acres. 1st season – Saturdays Only, 2nd and 3rd season – Open Mon. - Sat.

NEWBERRY

SCDOT McCullough Field

30 acres. Saturdays Only Beginning Sept. 10, Dove Hunting Only. Sept. 3 is Youth Hunt Only – Pre-registration required.

OCONEE

S.C. Forestry Commission - Piedmont Forestry Center

18 acres. Beginning Sept. 3 - Saturdays Only, Dove hunting only. 3rd season – Closed.

U.S. Forest Service – Long Creek Tract

In order to hunt, adults must have 1 or 2 youth age 17 or younger. Disability hunters must contact the U.S. Forest Service Andrew Pickens office 864-638-9568 for permit requirements and access.

20 acres. Sept. 3 is Youth Hunt Only – Pre-registration required. 1st season – Saturdays only beginning Sept. 17, 2nd season – Open November 19 Only – 3rd season – Closed.

U.S. Forest Service - Ross Mtn. Field

35 acres. Open 1st, 2nd & 3rd seasons Saturdays Only Beginning Sept. 3

*ORANGEBURG

Santee Cooper - Santee Cooper WMA

45 acres. Entire WMA under Dove Area Regulations. Sept. 3 is Youth Hunt Only – Pre-registration required. Sept. 17; Oct. 1; Nov. 23; Jan. 7.

32 EMERGENCY REGULATIONS

PICKENS

DNR Property

40 acres. Open 1st, 2nd & 3rd seasons Saturdays Only Beginning Sept. 3. Dove Hunting Only

Clemson University - Gravely WMA - Causey Tract

25 acres. Open 1st, 2nd & 3rd seasons Saturdays Only Beginning Sept 3.

DNR Property – Jocassee Gorges – Cane Creek Field

15 acres. Wednesday Only, Beginning Sept. 21

SPARTANBURG

Santee Cooper

15 acres. 1st season – Saturdays only, 2nd & 3rd seasons – Open Mon. – Sat.

Spartanburg Co Parks & Rec. Dept. – Inman Tract

20 acres. Saturdays Only, Dove Hunting Only.

SUMTER

S.C. Forestry Commission - Manchester State Forest

Bland Field 1 50 ac. Sept. 3 is Youth Hunt Only – Pre-registration required. 1st season – Sat (Designated Fields) 2nd & 3rd seasons - Open Mon. - Sat. (Designated Fields and the general forest).

Bland Field 2 50 acres 1st season – Sat (Designated Fields) 2nd & 3rd seasons - Open Mon. - Sat. (Designated Fields and the general forest).

Bird Haven Field 25 acres. 1st season – Sat (Designated Fields) 2nd & 3rd seasons - Open Mon. - Sat. (Designated Fields and the general forest).

Tuomey Field A 50 acres. Opening day participants selected by drawing. 1st season – Sat (Designated Fields) 2nd & 3rd seasons - Open Mon. - Sat. (Designated Fields and the general forest).

Tuomey Field B 20 acres. Opening day participants selected by drawing. 1st season – Sat (Designated Fields). 2nd & 3rd seasons - Open Mon. - Sat. (Designated Fields and the general forest).

UNION

DNR Thurmond Tract

15 acres. 1st season – Saturdays Only 2nd & 3rd seasons open Mon. – Sat.

Sedalia (U.S. Forest Service)

15 acres. 1st season – Saturdays – Beginning Sept. 10. Sept. 3 is Youth Hunt Only – Pre-registration required. 2nd & 3rd seasons - Open Mon. - Sat.

YORK

DNR - Draper Tract

45 acres (two fields). 1st season –Saturdays Only, 2nd & 3rd seasons Open Mon. - Sat. Opening day participants selected by drawing.

York County – Worth Mountain WMA

40 acres planted. 1st season – Saturdays only, 2nd & 3rd seasons Open Mon. - Sat.

SPECIAL YOUTH DOVE HUNTS:

Eligibility for these hunts requires adults 21 years or older to bring 1 or 2 youths 17 years of age and younger. The following regulations also apply on Special Youth Dove Hunts: (1) Adults accompanying youth are NOT allowed to shoot at any time during Special Youth Dove Hunts. (2) Adults must remain in the field and closely supervise participating youth at all times. (3) In parties of one adult and 2 youths, only one youth hunter may be handling a loaded firearm at any given time. (4) Bag limit is 15 birds per youth participant. Birds harvested by individual hunters must be kept separate and in no instance may an individual hunter harvest more than 15 birds.

ABBEVILLE COUNTY YOUTH HUNT

U.S. Forest Service – Bass Road Field
September 3 - Participants selected by drawing.

ANDERSON COUNTY YOUTH HUNT

Simpson Agriculture Station
September 3 - Participants selected by drawing.

CHARLESTON COUNTY YOUTH HUNT

Botany Bay Plantation WMA
Sept. 3, 17; Nov. 19; Dec. 28; Jan. 14
No pre-registration required.

NEWBERRY COUNTY YOUTH HUNT

SCDOT – McCullough Field
September 3 - Participants selected by drawing.

OCONEE COUNTY YOUTH HUNT

U.S. Forest Service – Long Creek Tract
September 3 - Participants selected by drawing.

ORANGEBURG COUNTY YOUTH HUNT

Santee Cooper – Santee Cooper WMA
September 3 - Participants selected by drawing.

SUMTER COUNTY YOUTH HUNT

Manchester State Forest near Wedgefield Bland Tract – Field 1.
September 3 - Participants selected by drawing.

UNION COUNTY YOUTH HUNT

U.S. Forest Service near Sedalia
September 3 - Participants selected by drawing.

YORK COUNTY YOUTH HUNT

DNR Draper WMA
September 3 - Participants selected by drawing.

Statement of Need and Reasonableness:

Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on new WMAs as well as expanding use opportunities on existing WMAs. Since the availability of specific fields changes each year and

34 EMERGENCY REGULATIONS

season dates change as allowed by Federal Regulation it is necessary to file Dove Field regulations annually. Because these hunts begin on September 3, it is necessary to file these regulations as emergency so they take effect immediately.

Fiscal Impact Statement:

This amendment of Regulation 123-40 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

Filed: August 31, 2011 9:02am

Document No. 4196
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-10, 50-11-96, 50-11-105,
50-11-310, 50-11-335, 50-11-350, 50-11-390, 50-11-520, 50-11-530, 50-11-854, 50-11-2200 and
50-11-2210

123-40. Wildlife Management Area Regulations

Emergency Situation:

These emergency regulations amend and supersede South Carolina Department of Natural Resources Regulation Number 123-40. These regulations set open and closed seasons, bag limits and methods of taking wildlife; define special use restrictions related to hunting and methods for taking wildlife on Wildlife Management Areas. Because the hunting seasons on many of these areas begin September 1, it is necessary to file these regulations as emergency.

Text:

123-40. Wildlife Management Area Regulations.

1.1 The following regulations amend South Carolina Department of Natural Resources regulation Numbers 123-40.

1.2. 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

Chauga, Franklin L. Gravely, Caesar’s Head

Still Gun Hunts For Deer Only (No dogs)	Oct. 11 through Oct. 16 Oct. 31 – Jan. 1	Total of 7 deer for all gun hunts. 2 deer buck ONLY, except either-sex on days specified in Reg. 4.2. Archers allowed to
---	---	---

take either-sex during entire period.

Special Party Dog
Hunt For Bear Only

Oct. 24 through Oct. 30

5 bears per party, no bears 100 lbs.or less, no sow with cubs at her side. Groups hunting together are considered 1 party. Hogs no limit.

Hogs and Coyotes

On each WMA property, feral hogs and coyotes may be taken during the open season for any game. No hog hunting with dogs except during special designated hog hunts with dogs and the during the party dog hunts for bear. Hog hunters must use small game weapons during small game-only season. Hog hunters are required to wear hat, coat or vest of solid international orange color while hunting. No hogs may be taken alive from WMA.

Hog Hunts with
Dogs (handguns only)
Four dog limit per party.

Jan. 2 – Mar. 1.
Daylight hours only

No limit.

(B) Game Zone 2

Hogs and Coyotes: On WMA lands in Game Zone 2, feral hogs and coyotes may be taken during the open season for any game. No hog hunting with dogs except during special designated hog hunts with dogs. Hog hunters must use small game weapons during small game-only season. Hog hunters are required to wear hat, coat or vest of solid international orange color while hunting. No hogs may be taken alive from WMA.

Hog Hunts with
Dogs (pistols only)
Four dog limit per party.

Feb. 1 – Feb. 15

No limit.

Keowee WMA

Hogs and Coyotes: On Keowee WMA property, feral hogs and coyotes may be taken during the open season for any game. No hog hunting with dogs. Hog hunters must use small game weapons during small game-only season. Hog hunters are required to wear hat, coat or vest of solid international orange color while hunting. No hogs may be taken alive from WMA.

Fants Grove WMA

Hogs and Coyotes: On Fants Grove WMA, feral hogs and coyotes may be taken during the open season for any game. No hog hunting with dogs. Hog hunters must use small game weapons during small game-only season. Hog hunters are required to wear hat, coat or vest of solid international orange color while hunting. No hogs may be taken alive from WMA.

(G) Francis Marion National Forest

During still gun hunts for deer there shall be no hunting or shooting from, on or across any road open to vehicle traffic. No buckshot on still gun hunts. During deer hunts when dogs are used buckshot only is permitted. On either-sex deer hunts with dogs, all deer must be checked in by one hour after legal sunset. On all still gun and muzzleloader either-sex hunts for all units, all does must be tagged

Total of 4 deer for all gun and muzzleloader hunts on the Francis Marion.

36 EMERGENCY REGULATIONS

with an individual antlerless deer tag except when harvested on county-wide either-sex days. Individual antlerless deer tags are valid on days not designated as either-sex on or after Oct. 1 for still hunting only.

Tibwin Special Use Area (in Wambaw) is 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. Hogs may be harvested during any scheduled hunt. No fox or coyote hunting with dogs on the Francis Marion.

Still Hog Hunts (no dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	Mar. 2 – Mar. 20	Hogs only, no limit.
--	------------------	----------------------

Hellhole WMA

Small Game No open season for fox hunting	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply. Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer or hogs.	Game Zone 6 bag limits except Quail- 8 per day.
---	---	--

(H) Moultrie

Porcher WMA

Small Game (No open season on fox squirrels) Shotguns only.	Jan. 2 through Mar. 1	Game Zone 6 bag limits. Except quail 8 per day.
--	-----------------------	--

(J) Webb WMA

Data cards are required for hunter access. Completed data cards must be returned daily upon leaving Webb WMA.

Quail Hunts	2 nd and 4 th Wed. in Jan. 2 nd and 4 th Sat. in Jan. 1 st and 3 rd Sat. in Feb. 1 st and 3 rd Wed. in Feb.	8 quail per day Shooting hours end 30 minutes prior to official sunset.
-------------	--	--

Still Hog Hunts (no dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	4 th Thurs. – Sat. in Feb. 2 nd Thurs. – Sat. in May 1 st Thurs. – Sat. in Sept.	No limit.
--	---	-----------

(N) Bear Island WMA

All hunters must sign in and out at the Bear Island Office. Hunting in designated areas only. Hogs may be harvested during any scheduled hunt.

Quail	Quail hunting Tue. only beginning the Tue. after Federal youth waterfowl day - Mar. 1.	Game Zone 6 bag limits.
Other Small Game No open season on fox squirrels.	Beginning the Wed. after Federal youth waterfowl day – Mar. 1. Wed. and Sat. Only	Game Zone 6 bag limits.
Raccoon/Opossum	Beginning the Wed. after Federal youth waterfowl day – Mar. 15. Wed. and Fri. Nights Only	Game Zone 6 bag limits.
Alligator Hunts Bear Island East and West Units only.	Hunters selected by drawing only. Limited season with restricted access.	1 alligator per selected hunter.

(R) Santee Coastal Reserve WMA

Deer hunters must sign in and sign out and complete a data card on harvested animals. Hogs may be harvested during any scheduled hunt.

Alligator Hunts Cape Unit only.	Hunters selected by drawing only. Limited season with restricted access.	1 alligator per selected hunter.
------------------------------------	--	----------------------------------

(T) Woodbury WMA

Special Hog Still Hunt (No dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	Mar. 1 – 3 rd Sat. in Mar. May 2 – last Sat. in June (Thurs. - Sat. only). 1 st Mon. in Aug. – last Sat. in Aug. (Thurs. – Sat. only).	Hogs <u>only</u> , no limit.
Special Hog Hunt With dogs	1 st Mon. in Jan. - 4 th Sat. in Jan. 1 st Mon. in July – last Sat. in July (Thurs. – Sat. only).	Hogs only, no limit. Limit of 4 bay or catch dogs per party, no live hogs removed from WMA. Handguns only.

(U) Manchester State Forest WMA

Deer		Total of 5 deer per season for all hunts.
Still Gun Hunts (No Dogs, no buckshot)	5 th Mon. in Sept. – following Sat. 1 st Mon. in Oct. – following Sat. 2 nd Mon. in Oct. – following Sat. 3 rd Tues. in Oct. – following Fri.	1 per day, buck only except on either-sex hunts published annually.

38 EMERGENCY REGULATIONS

4 th Tues. in Oct. – following Fri.	
5 th Tues. in Oct. – following Thurs.	In years when there is a fifth Tuesday in Oct., additional deer hunts may be scheduled on Fridays and Saturdays during October and November.
1 st Tues. in Nov. – following Fri.	
2 nd Tues. in Nov. – following Sat.	
3 rd Tues. in Nov. – following Fri.	
Mon. – Sat. the week of Thanksgiving.	
4 th Mon. in Nov. – following Fri.	
1 st Tues. in Dec. – following Fri.	In years when there is a fifth Monday in Dec. additional hunts may be scheduled that week.
First full week following the 1 st Tues. in Dec. – following Fri.	
Second full week following the 1 st Tues. in Dec. – following Fri.	
Third full week following 1 st Tues. in Dec. – following Sat.	

(V) Sand Hills State Forest WMA

Special Coyote Still Hunt Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns. No dogs.	Mar. 1 – 3 rd Sat. in Mar.	Coyotes only, no limit.
--	---------------------------------------	-------------------------

(W) Marsh WMA

Special Hog Still Hunt (No dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	Mar. 1 – 3 rd Sat. in Mar. May 2 – last Sat. in June (Thurs. - Sat. only). 1 st Mon. in Aug. – last Sat. in Aug. (Thurs. – Sat. only).	Hogs only, no limit.
Special Hog Hunt With dogs	1 st Mon. in Jan. - 4 th Sat. in Jan. 1 st Mon. in July – last Sat. in July (Thurs. – Sat. only).	Hogs only, no limit. Limit of 4 bay or catch dogs per party, no live hogs removed from WMA. Handguns only.

(X) Hamilton Ridge WMA

Quality Deer Management Area – Antlered deer must have at least 4 points on 1 side or a minimum 12-inch antler spread. A point must be at least 1 inch long measured from the nearest edge of main beam to the top of the point. No more than 3 bucks total may be taken during all seasons combined regardless of method. Firearms must be unloaded and cased when not hunting. No hunting or shooting from, on, or across any roads open to vehicular traffic. Scouting and stand placement allowed 1 day prior to hunts. No buckshot. Hogs may be taken only during deer hunts or scheduled hog hunts. All taken must be killed where taken. Horseback riding by permit only. No ATVs allowed. Data cards are required for hunter access. Completed data cards must be returned daily upon leaving Hamilton Ridge WMA.

Deer

Muzzleloader and Archery (No dogs)	1st full week in Nov.	2 deer per hunt period, either-sex, only 1 buck. Hogs no limit.
Archery Only (No dogs)	3 rd Mon- Sat. in Sept. 4 th Mon. – Sat. in Oct. 1 st week in Nov. 2 nd Mon. – Sat. in Nov. 2 nd Thur. – Sat. in Dec.	2 deer per hunt period, either-sex, only 1 buck. Hogs no limit.

Quail Hunts

	2 nd and 4 th Wed. in Jan. 2 nd and 4 th Sat. in Jan. 1 st and 3 rd Sat. in Feb. 1 st and 3 rd Wed. in Feb.	8 quail per day Shooting hours end 30 minutes prior to official sunset.
Still Hog Hunts (no dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	4 th Thurs. – Sat. in Feb. 2 nd Thurs. – Sat. in May 1 st Thurs. – Sat. in Sept.	No limit.

Hog hunters are required to wear hat, coat or vest of solid international orange color while hunting.

(Z) Donnelley WMA

Deer

All hunters must sign in and out at the check station. Hunting in designated areas only. Scouting season for archery only on the day before season opens. Hogs can be harvested during any scheduled hunt only with weapons allowed for the current open season.

Small Game No open season for fox squirrels.	Wed. and Sat. Dec. 6 - Mar. 1	Game Zone 6 Bag Limits.
Raccoon and Opossum	Tues. and Fri. Nights Dec. 6 - Mar. 15.	Raccoon - Game Zone 6 Bag Limits, opossum - no limit.

(AA) Little Pee Dee River Complex WMA

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. Still hunting only, no deer dogs, no buckshot, no hunting from vehicles or watercraft, or from or on any roads open to vehicular traffic. Hogs may be harvested during any scheduled hunt only with weapons allowed for the current open season.

Special Hog Still Hunt (no dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles,	Mar. 1 – 20.	Hogs only, no limit, no bay or catch dogs.
--	--------------	---

40 EMERGENCY REGULATIONS

centerfire handguns and shotguns
with slugs only.

Special Hog Hunt With Dogs Buckshot and rimfire Firearms not permitted.	Mar. 26 – 31.	No limit, handguns only, no more than 4 bay or catch dogs per party. No live hogs removed from WMA.
Raccoon	Sept. 15 – Mar. 1.	3 per party per night.

(DD) Palachuola WMA

Deer Hunts

Deer hunting or shooting will not be allowed from or on roads open to vehicle traffic. Data cards are required for hunter access. Completed data cards must be returned daily upon leaving Palachuola WMA.

Archery (No dogs)	3 rd Thurs. – Sat. in Dec.	3 deer, either-sex except only 1 buck with a minimum 4 points on one side or a minimum 12-inch antler spread.
----------------------	---------------------------------------	--

Quail Hunts

	2 nd and 4 th Wed. in Jan. 2 nd and 4 th Sat. in Jan. 1 st and 3 rd Sat. in Feb. 1 st and 3 rd Wed. in Feb.	8 quail per day Shooting hours end 30 minutes prior to official sunset.
Still Hog Hunts (no dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	4 th Thurs. – Sat. in Feb. 2 nd Thurs. – Sat. in May 1 st Thurs. – Sat. in Sept.	No limit.

Hog hunters are required to wear a hat, coat or vest of solid international orange color while hunting. Hunters must sign register at Webb WMA upon entering and leaving the Palachuola WMA. No hogs may be taken alive from Palachuola WMA.

(FF) Waccamaw River Heritage Preserve WMA

Special Hog Still Hunt (no dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	Mar. 1 – 20.	Hogs only, no limit, no bay or catch dogs.
Hog hunt with dogs	Mar. 21 – 25.	No limit, sidearms only, no More than 4 bay or catch dogs per party, no live hogs removed from WMA.

(II) Cartwheel Bay HP

Deer Hunts

Total 3 deer for all hunts combined.
Hogs no limit.

~~**(LL) Sandy Island WMA:**~~

~~Hunting from vehicles prohibited.~~

~~Deer~~

~~Total 3 deer per season not
to include more than 1 buck.~~

~~Archery Only~~

~~Oct. 1 – Nov. 30~~

~~1 deer per day, either sex.
Hogs and coyotes no limit.~~

(NN) Dungannon WMA

Deer Hunts
(No dogs)

Total 8 deer per season.

Archery
(No dogs)

Oct. 15 through Dec. 1

2 deer per day, either-sex.
Hogs no limit.

(QQ) Oak Lea WMA

Deer

Total 10 deer per season.

Archery

Sept. 15 through Sept. 22

2 deer per day, either-sex.

Archery & Muzzleloader

Sept. 23 through Sept. 30

2 deer per day, either-sex.

(SS) Edisto River WMA

Hogs may be harvested during any scheduled hunt.

Still Gun Hunts

Monday following the closing
of muzzleloader season
through Dec. 31.

1 per day, either-sex
each Fri. & Sat. in Nov.
Hogs, no limit.

(UU) Wee Tee WMA

Special Hog
Still Hunt (No dogs)
Archery, crossbows, centerfire
rifles, muzzleloading rifles,
centerfire handguns and
shotguns with slugs only.

Mar. 1 – 3rd Sat. in Mar.
May 2 – last Sat. in June
(Thurs. - Sat. only).
1st Mon. in Aug. – last Sat. in
Aug. (Thurs. – Sat. only).

Hogs only, no limit.

Special Hog Hunt
With dogs

1st Mon. in Jan. -
4th Sat. in Jan.
1st Mon. in July – last Sat.
in July (Thurs. – Sat. only).

Hogs only, no limit. Limit of 4
bay or catch dogs per party,
no live hogs removed from
WMA. Handguns only.

42 EMERGENCY REGULATIONS

(VV) Bonneau Ferry WMA

~~Hog hunters are required to wear hat, coat or vest of solid international orange color while hunting. Hunters must sign in and sign out and record harvested hogs at the kiosk at the main entrance. Hunts from legal sunrise to legal sunset. Both Sides (A & B) are open to hog hunting with no youth restrictions.~~

Special Hog Hunt	March 5, 6, 20	Hogs only, no limit. Limit of 4
With dogs	May 7,8	bay or catch dogs per party,
One shotgun per party		hogs may not be transported
(buckshot only) and		alive.
centerfire handguns		

(YY) Botany Bay Plantation WMA

Raccoons and Opossum Jan. 2 – Mar. 15 (Wed. - Fri. only) Game Zone 6 bag limits.

WILDLIFE MANAGEMENT AREA REGULATIONS

General

2.14 On WMA lands, hunting armadillos, coyotes and hogs at night is prohibited. Armadillos and coyotes may be hunted during any open season for game during daylight hours. Weapon(s) used to hunt armadillos and coyotes are limited to the weapon(s) that are allowed for the current open season on WMA.

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.

5.6 On WMA lands, dogs may be used to hunt hogs only during special designated hog hunts with dogs.

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, except hunters for dove, turkey, ducks, geese and other hunted migratory birds including crows are exempt from this requirement while hunting for those species.

10.14 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; Palachuola 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.

10.15 Category I Designated Waterfowl Areas include Beaverdam, Bonneau Ferry, Broad River, Clemson, Sandy Beach, Samworth, Santee Coastal Reserve, Santee-Delta, Tibwin, Bear Island, and Donnelley Wildlife Management Areas. Hunting in Category I Designated Waterfowl Areas is by special permit obtained through annual computer drawing.

10.16 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, Santee Cooper and 40 Acre Rock Waterfowl Management Areas. Hunting on Category II Designated Waterfowl Areas is in accordance with scheduled dates and times.

DESIGNATED WATERFOWL AREAS

Area	Open dates inclusive	Bag Limits
Santee Cooper	Sat. AM only during regular season.	Federal Limits

Statement of Need and Reasonableness:

Periodically additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs. Amendments are needed to allow additional opportunity. Because some hunts begin on September 1, it is necessary to file these regulations as emergency so they take effect immediately.

Fiscal Impact Statement:

This amendment of Regulation 123-40 will result in increased public hunting opportunities that should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

Filed: September 1, 2011 9:35am

Document No. 4194

DEPARTMENT OF NATURAL RESOURCES

CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-220, 50-11-2200 and 50-11-2210

123-40. Wildlife Management Area Regulations

Emergency Situation:

This amended regulation sets seasons, bag limits and methods of hunting and taking of wildlife on Wildlife Management Areas. Amendments are needed to allow a special deer herd reduction hunt on Croft State Natural Area. Because the hunts begin on September 28, it is necessary to file these regulations as emergency so they take effect immediately.

Text:

123-40. Hunt Units and Wildlife Management Area Regulations

1.2(X) Croft State Natural Area WMA

Archery-Crossbow Deer Hunts	September 28-29 October 19-20 November 2-3	3 Deer Per Day, either-sex Max. 1 antlered buck per day
-----------------------------	--	--

44 EMERGENCY REGULATIONS

Hunt Procedure/ Special Rules and Regulations

1. All hunters are required to check-in and obtain a daily permit at the checkpoint at the Maintenance Shop near the main gate on or prior to each day of the hunt period. The checkpoint will be open on the day of the hunt approximately 2 hours before official sunrise and the day before each hunt period from 5:00 pm to 8:00 pm.

2. All hunters must leave their hunt area immediately after dark and must report to the checkpoint to checkout no later than one hour after official sunset. Failure to checkout in a timely manner will result in a citation. Those persons needing to return to the hunt area to look for a wounded deer or to retrieve a dead deer must notify PRT or DNR personnel at that time.

3. Scouting is allowed during normal park hours and days prior to each hunt period. Daily admission fees apply, except days of applicant's hunt.

4. Parking is allowed only on park property inside the property boundaries and along roads inside the interior portion of the park. The daily hunt permit must be displayed on the dash of all vehicles parked on state park property. A parking area will be provided near the old ammo dump just off Dairy Ridge Road but parking is not allowed along Dairy Ridge Road. Do not park where a gate is being blocked.

5. Portable stands may be placed one day prior to your scheduled hunt and must be removed no later than one day following each hunt period. Screw-in steps must be removed and no permanent spikes or nails are allowed.

6. Only Archery equipment including crossbows is permitted. Hunters are allowed to carry only one type of equipment at a time.

7. Hunters must wear either a hat, coat or vest of international orange during all hunts except while occupying an elevated stand more than six feet above the surface level.

8. Hunters may use boats with electric trolling motors only to enhance hunter access. Running lights and all other safety equipment are required.

9. The use of a trail dog on a leash will be allowed for the recovery of wounded deer from 11:00 am to 3:00 pm and after dark. You must notify PRT or DNR before a dog is utilized.

10. Hunters will not be allowed to use ATV's.

11. Camping is available at Croft State Natural Area.

12. The daily bag limit is 3 deer per day including no more than one antlered buck.

13. Field dressing of deer is allowed in the woods but entrails should not be left closer than 200 yards from any road, trail or facility. Hunters should not attempt to dig in the ground to bury entrails because of safety concerns regarding buried ordnance (See safety requirements sheet). Field dressing of deer will not be allowed at the check station near the Maintenance Shop.

14. All harvested deer must be promptly brought to the deer check station at the Shop near the main gate.

15. Firearms or alcoholic beverages are not allowed within the park.

16. Hunters who harvest antlerless deer (including does and button bucks) will be pre-selected to attend the following year's hunt if one is conducted.

17. All State Parks, Recreation and Tourism (PRT) and all Wildlife Management Area (WMA) rules and regulations apply.

Statement of Need and Reasonableness:

Periodically additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs. Amendments are needed to allow a special deer herd reduction hunt on Croft State Park. Because the hunts begin on September 28, it is necessary to file these regulations as emergency so they take effect immediately.

Fiscal Impact Statement:

This amendment of Regulation 123-40 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

46 FINAL REGULATIONS

Document No. 4190
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: Individuals with Disabilities Education Improvement Act of 2004,
20 U.S.C. 1400 et seq. (2004)

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 to align state rules, regulations, and policies relating to the education of children with disabilities to the purposes and requirements of the Individuals with Disabilities Education Improvement Act of 2004 regulation 34 CFR Parts 300 and 301 as amended August 28, 2009. This regulation will amend current regulation 43-243.1.

The Notice of Drafting was published in the *State Register* on September 24, 2010.

Instructions:

Replace 43-243.1, Criteria for Entry into Programs of Special Education for Students with Disabilities, with the following.

Text:

43-243.1. 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-services 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

1. Definition

Autism is a developmental disability, generally evident before age three, which adversely affects a student's educational performance and significantly affects developmental rates and sequences, verbal and non-verbal communication and social interaction and participation. Other characteristics often associated with autism are unusual responses to sensory experiences, engagement in repetitive activities and stereotypical movements and resistance to environmental change or change in daily routines. Students with autism vary widely in their abilities and behavior. The diagnosis of Autism does not apply if a student's educational performance is adversely affected primarily because the student has an emotional disorder. Autism may exist concurrently with other areas of disability.

Autism, also referenced as autism spectrum disorder, for the purpose of eligibility, may include Autistic Disorder, Pervasive Developmental Disorder Not Otherwise Specified (PDD-NOS), or Asperger's Syndrome provided the student's educational performance is adversely affected and the student meets the eligibility and placement requirements.

48 FINAL REGULATIONS

2. Eligibility Criteria

There is evidence that the child has any of the Pervasive Developmental Disorders, such as Autistic Disorder, Asperger's Disorder, PDD-NOS as indicated in the following diagnostic references:

a. Asperger's Disorder:

(1) There is evidence that the child demonstrates impairments in social interaction, such as marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction; failure to develop peer relationships appropriate to developmental level; a lack of spontaneous seeking to share enjoyment, interests, or achievements with other people (i.e., by a lack of showing, bringing, or pointing out objects of interest); or lack of social or emotional reciprocity are noted; and

(2) Restricted repetitive and stereotyped patterns of behavior, interests, and activities such as encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus, apparently inflexible adherence to specific, nonfunctional routines or rituals, stereotyped and repetitive motor mannerisms, persistent preoccupation with parts of objects.

(3) The adverse effects of the Asperger's Disorder on the child's educational performance require specialized instruction and/or related services.

b. Autistic Disorder

(1) In addition to the characteristics listed in (a)(1) and (2) of this subsection, there also is evidence that the child demonstrates impairments in communication, such as delay in, or total lack of, the development of spoken language (not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime). In individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others, stereotyped and repetitive use of language or idiosyncratic language, or lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level is noted.

(2) The adverse effects of the Autistic Disorder on the child's educational performance require specialized instruction and/or related services.

c. PDD-NOS

(1) There is evidence that the child demonstrates any of the characteristics listed in a or b of this subsection without displaying all of the characteristics associated with either Asperger's Disorder or Autistic Disorder.

(2) The adverse effects of the PDD-NOS on the child's educational performance require specialized instruction and/or related services.

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.

(1) a hearing loss that is 20 dB or greater at any one frequency, either unilaterally or bilaterally, or

(2) a fluctuating hearing loss, either unilaterally or bilaterally, and

(3) The visual acuity with correction is 20/70 or worse in the better eye; or

(4) The visual acuity is better than 20/70 with correction in the better eye, and there is documentation of either of the following conditions: a diagnosed progressive loss of vision or a visual field of 40 degrees or less; or

(5) The visual acuity is unable to be determined by a licensed optometrist or ophthalmologist, and the existence of functional vision loss is supported by functional vision assessment findings; or

(6) There is evidence of cortical visual impairment.

b. The adverse effects of the hearing and visual impairment on the child's educational performance require specialized instruction and/or related services.

D. Deaf/Hard of Hearing

1. Definition

Deaf means a hearing loss that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a student's academic or functional performance.

Hard of Hearing means a hearing loss, whether permanent or fluctuating, that adversely affects a student's academic or functional performance with or without amplification, but that is not included under the definition of deaf in this section.

2. Eligibility Criteria

a. There is evidence that the child has

(1) a hearing loss that is 20 dB or greater at any one frequency, either unilaterally or bilaterally, or

(2) a fluctuating hearing loss, either unilaterally or bilaterally.

b. The adverse effects of the deafness or hard of hearing impairment on the child's educational performance require specialized instruction and/or related services.

E. Developmental Delay

1. Definition

A child with developmental delay is a child age 3-9 who has been identified before the age of 7 as experiencing significant developmental delays in one or more of the following areas: physical development,

50 FINAL REGULATIONS

cognitive development, communication development, social or emotional development, or adaptive development: and who, by reason thereof, needs special education and related services.

The term significant developmental delay refers to a delay in a child's development in adaptive behavior, cognition, communication, motor development or social development to the extent that, if not provided with special intervention, it may adversely affect his/her educational performance in age-appropriate activities. 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, lack of experience in age appropriate activities, lack of appropriate instruction in reading, lack of appropriate instruction in math, limited English proficiency or the child does not otherwise meet the eligibility criteria as a child with a disability.

2. Eligibility Criteria

a. There is evidence that child is exhibiting a significant developmental delay in one or more of the following areas:

- (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:

Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 1208(3) of the Elementary and Secondary Education Act;

- (1) Lack of appropriate instruction in math;
- (2) Limited English proficiency; or
- (3) The presence of any other disability for children ages six through seven.

c. The adverse effects of the developmental delay on the child's educational performance require specialized instruction and/or related services.

F. Emotional Disability

1. Definition

Emotional Disability means an emotional disturbance defined as 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 student'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 disturbance.

2. Eligibility Criteria

a. There is evidence that the child exhibits one or more of the following characteristics over a long period of time and to a marked degree: an inability to learn that cannot be explained by intellectual, sensory, or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings in normal circumstances; general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal or school problems.

b. The adverse effects of the emotional disability on the child's educational performance require specialized instruction and/or related services.

G. Intellectual Disabilities

1. Definitions

Intellectual Disability means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's educational performance.

2. Eligibility Criteria

a. There is evidence that the child has:

(1) Significant limitations in intellectual functioning must be evidenced by scores on both verbal and nonverbal scales that are at least two standard deviations below the mean (+/- the standard error of measurement) on an individually administered intelligence test.

(2) Significant deficits in adaptive behavior must be evidenced by a score at least two standard deviations below the mean (+/- the standard error of measurement) in at least two adaptive skill domains.

(3) Significant deficits in educational performance (pre-academic, academic and/or functional academic skills) must be evidenced by significant delays in functioning when compared to the child's same aged peers.

b. The adverse effects of the intellectual disability on the child's educational performance require specialized instruction and/or related services.

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 does not include deaf-blindness.

52 FINAL REGULATIONS

2. Eligibility Criteria

a. There is evidence that the child meets all eligibility requirements for two or more disabilities. The term does not include developmental delay, deaf-blindness, or 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/or related services.

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 such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette's syndrome and adversely affects a student's educational performance.

2. Eligibility Criteria

a. There is evidence that the child has a chronic or acute health problem.

b. There is evidence that the diagnosed chronic or acute health problem results in limited alertness to the educational environment due to limited strength, limited vitality, limited or heightened alertness to the surrounding environment.

c. The adverse effects of the other health impairment on the child's educational performance require specialized instruction and/or 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. There is evidence that the child has a severe orthopedic impairment.

b. The adverse effects of the orthopedic impairment on the child's educational performance require specialized instruction and/or related services.

K. Specific Learning Disabilities

1. Definition

Specific Learning disability means a disorder in one or 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.

2. Eligibility Criteria

a. There is evidence that the child does not achieve adequately for his/her age or to meet state-approved grade level standards in one or more of the following areas: Basic reading skills, Reading fluency, Reading comprehension, Mathematics calculation, Mathematics problem-solving, Written expression, Oral expression, or Listening comprehension; and either

(1) does not make sufficient progress to meet age or state-approved grade-level standards when using a process based on the child’s response to scientific, research-based intervention, or

(2) exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments.

b. The child’s underachievement is not due to: visual, hearing, or motor disability; intellectual disability; emotional disability; cultural factors; environmental or economic disadvantage; limited English proficiency; or lack of appropriate instruction in reading or math.

c. The adverse effects of the learning disability on the child’s educational performance require specialized instruction and/or related services.

L. Speech-Language Impairment

1. Definition

Speech-Language Impairment means a communication disorder, such as stuttering, impaired articulation, language impairment, or a voice impairment, that adversely affects a child’s educational performance.

2. Eligibility Criteria

a. There is evidence that the child has one or more of the following impairments:

(1) 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 dysfluencies or stuttering

(2) articulation - 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

(3) language – impaired comprehension and/or use of spoken language which adversely affects written and/or other symbol systems and the child’s ability to participate in the classroom environment

(4) 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

b. The adverse effects of the speech-language impairment on the child’s educational performance require specialized instruction and/or related services

54 FINAL REGULATIONS

M. Traumatic Brain Injury

1. Definition

Traumatic Brain Injury means an acquired injury to the brain caused by an external physical force, 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 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. There is evidence that the child had a traumatic brain injury.

b. The adverse effects of the traumatic brain injury on the child's educational performance require specialized instruction and/or 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

a. There is evidence that

(1) The visual acuity with correction is 20/70 or worse in the better eye; or

(2) The visual acuity is better than 20/70 with correction in the better eye, and there is documentation of either of the following conditions: a diagnosed progressive loss of vision or a visual field of 40 degrees or less;

(3) The visual acuity is unable to be determined by a licensed optometrist or ophthalmologist, and the existence of functional vision loss is supported by functional vision assessment findings; or

(4) There is evidence of cortical visual impairment.

b. The student's visual impairment adversely affects his or her educational and functional performance. The adverse effects of the visual impairment on the child's educational performance require specialized instruction and related services.

O. Reevaluation

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.